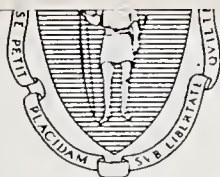


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# The HANDBOOK

For Massachusetts State Managers

- PERSONNEL PROCEDURES
- EMPLOYEE BENEFITS
- PURCHASING AND PROCUREMENT
- DEVELOPMENT OF HUMAN RESOURCES

574/274





FRANK T. KEEFE  
Secretary

*The Commonwealth of Massachusetts*  
*Executive Office for*  
*Administration and Finance*  
*State House, Boston 02133*

TO: Cabinet Secretaries and Agency Heads  
FROM: Frank T. Keefe *FTK*  
DATE: November 30, 1984  
SUBJECT: Manager's Handbook

To enable managers to work more productively within the Commonwealth's administrative structure, the Executive Office for Administration and Finance has prepared a Manager's Handbook which contains key information -- in easily understandable and accessible form -- about the State's administrative policies and procedures. A copy for you is enclosed.

As you can see, the topics covered include: manager's responsibilities and options in the area of personnel management, given Civil Service law and collective bargaining; contracting procedures; and information about fringe benefits such as health insurance, retirement and deferred compensation. This Handbook focuses on the most important information; a manager seeking more detailed information about a particular topic can consult the reference sources noted in each section. Note that this Handbook can be easily updated as well as expanded to include additional topics.

The Handbook has been produced to be useful to you and other state managers. If you have any suggestions as to how it can be improved, please contact B. J. Rudman, Assistant Secretary for Management, at 727-2054.

Distribution: A limited number of copies are being made available to you for distribution to managers in your offices. If you need additional copies, please contact Steven Wojtasinski in my office at 727-8509.

FTK:md  
Enclosure



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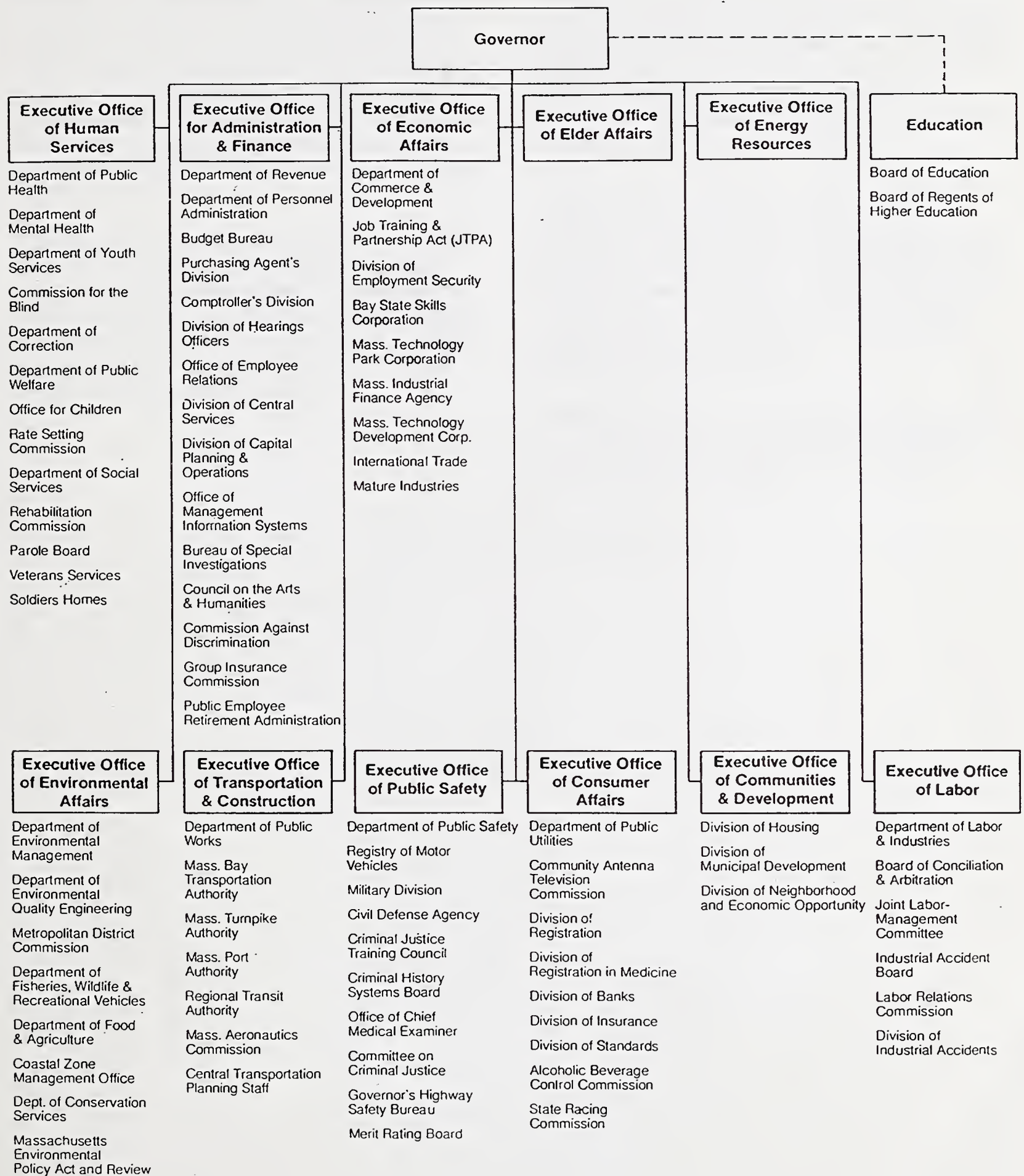
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# Introduction

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Too often, Massachusetts State Managers are unable to meet their work objectives because of inadequate information about how to get things done within the government's administrative framework. The purpose of this Handbook is to provide you, as a State Manager, with information about the State's administrative policies and procedures that can help you fulfill your responsibilities and manage your operations.

The topics covered include: your responsibilities and options in the area of personnel management, given Civil Service law and collective bargaining agreements; the limits on individual political activity; and information about compensation and benefits, including deferred compensation, health insurance and retirement.

The primary objective of this Handbook is to provide *key* information in easily understandable and accessible form. The Handbook does not purport to contain all the information about the topics covered. Rather, reference sources have been identified for a manager who needs more detailed information about a particular topic.

Note that this Handbook has been constructed in a fashion that permits the information to be updated as needed and to include additional topics. As warranted, you will receive updates on the individual topics to replace outdated information in the Handbook. Moreover, you may receive additional topical segments if it is felt that this information would be useful.

This Handbook has been produced to be useful to you. If you feel it can be improved, please contact the Executive Office for Administration and Finance at (617) 727-2040.

November 1984



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# A. Personnel Procedures

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# Civil Service

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Unless expressly exempt by law, all positions in state service are subject to civil service law (Chapter 31). Those positions exempt from civil service include management positions in grades M-V through M-XII and gubernatorial appointments to positions which are not part of the state's classification and pay plan.

The purpose of the civil service system is to implement basic merit principles in the hiring, training, promotion, and retention of state employees. Protection against coercion for political purposes is a specifically stated goal of the civil service system.

## How the Process Works

Only an appointing authority or his/her designee can fill a vacancy in a position covered by civil service; a complete list of appointing authorities may be obtained from the Department of Personnel Administration (DPA). To do so, s/he must file a requisition form. If a civil service eligible list already exists as the result of an examination, DPA sends a portion of that list to the appointing authority. This partial list is referred to as a "certification". At the same time, DPA notifies all individuals whose names are on the certification that their names have been forwarded to the agency. Within two weeks, all individuals who are interested in the available position must indicate their interest to the appointing authority and sign the list indicating their interest.

Normally, the appointing authority receives a number of names equal to twice the number of vacancies stated in the requisition, plus one (i.e., five names from which to select for two vacancies; etc.) If an appointing authority has more than one vacancy to fill, s/he must pick, from among the first three individuals *willing to accept*, to fill the first vacancy; from the first five willing to accept to fill the second vacancy, etc.

If a civil service list does not exist, the position may be filled on a *provisional basis* until a civil service eligible list is established. The appointing authority must remove any individual filling a position on a provisional basis within 30 days of receipt of a certification of names from an eligible list. At that point, the position must either be filled from the eligible list or left vacant.

A provisional appointment may be made or continued despite the issuance of a certification if the certification contains fewer than three names *willing to accept* for one position and if the Personnel Administrator approves the appointing authority's statement of reason as to why the list of one or two names is insufficient.

To fill a particular position, the appointing authority may request that DPA hold an "open competitive exam" (i.e., an exam open to the general public), a "departmental promotional exam" (i.e., an exam open only to persons with civil service status already in the departmental unit), an alternate departmental promotional exam, or both open competitive and promotional exams. The Personnel Administrator must approve which exam(s) will be given.

## Appointment or Promotion on a Provisional Basis

When a position is filled provisionally, the person appointed to fill it is considered either a provisional appointee or a provisional promotee. If an appointing authority has requested an open competitive examination, the person immediately selected to fill the position is considered a provisional appointee. If the appointing authority requests a promotional examination, the person immediately selected to fill the position is a provisional promotee.



## Civil Service

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A provisional promotee must be selected from that group eligible to take the promotional exam. If a promotional exam is requested, the appointing authority must select a person who has been employed from a certified list in a job title in the series one level below the vacancy. This person must also be both qualified and willing to accept. If no person in the next lower title is either qualified or willing to accept provisional promotion, *any eligible person* may be selected, regardless of grade.

Any appointing authority wishing to make a provisional appointment must appoint a qualified veteran to the position. In the event s/he appoints a non-veteran, the appointing authority must certify in writing to DPA that no qualified veteran was willing and able to accept the appointment. DPA maintains a pool of potentially qualified veterans (veterans may file applications for the kind of work in which they are interested and qualified; DPA keeps that information on file for one year). An appointing authority wishing to make a provisional appointment must consult this file.

### Eligible Lists

Applicants who pass the civil service examinations are placed upon the eligible list for a particular title if they meet any established additional qualifications beyond the exam (i.e., degrees, diplomas, certificates, specific work experience, or medical condition). Ranking on the eligible list follows the order established by statute:

- 1)** all disabled veterans with scores ranging from 100% to the test passing score;
- 2)** all veterans;
- 3)** widows or widowed mothers of veterans killed in action or deceased because of wartime disabilities;
- 4)** non-veterans.

For entrance to the police or fire service, the name of a son or daughter of a firefighter or police officer who passes the required written and physical examination, is placed in the first position on the eligible list if the parent firefighter or police officer was killed or died of injuries received in the performance of duty.

### Part-time Employment

A regular part-time employee is eligible to take a promotional examination if: s/he 1) meets the training and experience requirements established by the Personnel Administrator for that examination, and 2) has completed one calendar year of service following appointment from an eligible list. This does not apply to the Capitol Police or MDC Police.

A regular part-time employee appointed from an eligible list may acquire civil service tenure and reinstatement rights in the same manner as a full-time employee, but ranks below permanent full-time employees in seniority. Full-time tenured employees converting to part-time status in the same position or another position in the same title may transfer tenure rights to the part-time position.

### Special Certification Programs

There are currently four special civil service certification programs which cover certain eligible persons seeking appointments in public employment: 1) veterans' preference; 2) Paragraph 10 (formerly Rule 14); 3) Chapter 778; and 4) selective certification.

**1) Veterans Preference.** By law, the order of placement on an eligible list from an open competitive examination is:

- any disabled veterans
- any veterans
- any widows or widowed mothers of veterans killed in action or who died from wartime disabilities.
- all others

This preference is allowed *only* after the eligible individual has first passed the examination based upon the passing score established by the Personnel Administrator. In promotional exams, any veteran (disabled or not) who passes the exam is awarded an additional two points which are added to his/her score. Once this addition is made, the veteran is placed on the eligible list in rank order along with all others.



**2) Paragraph 10.** This rule is generally referred to as the “3+3” Program. The purpose of this rule is to permit state and municipal appointing authorities a wider range of selection in order to fulfill affirmative action goals for the appointment of women and minorities to civil service positions.

When filing a requisition for a position, an appointing authority may request that the Department of Personnel Administration use this rule to provide an alternate civil service list for either women or minorities. The appointing authority's agency must have an approved affirmative action plan on file with the State Office of Affirmative Action or the Massachusetts Commission Against Discrimination (MCAD). DPA then conducts a statistical analysis to determine whether there is underutilization of the “protected” group in the job category requested.

If such underutilization does exist, DPA provides an alternate list in addition to the regular list, allowing the appointing authority to review for possible appointment three additional women or minority candidates for each position. The appointing authority is therefore able to fill one position from a pool of as many as six candidates, at least three of whom will be minorities and/or women. This procedure may not be used to fill state and municipal fire and police positions.

**3) Chapter 31, Section 47A** (formerly Chapter 778) This statute provides a means for increasing appointments to entry-level civil service positions in state and municipal agencies of “disadvantaged” individuals who have successfully completed a certified federal or state-funded work training program. Eligible applicants must pass a civil service examination following the training and be certified as a “disadvantaged” person. A disadvantaged person is one whose family net income does not exceed low income guidelines established by the federal government and who meets one of the following criteria:

- does not have a high school education or its equivalent;
- is a member of a minority group;
- is under 21 or over 44 years old; or
- is handicapped.

These applicants are then placed on an alternate civil service list (a “778 list”), which an appointing authority will routinely receive in addition to the regular list for entry level titles. This alternative list can be used in the same manner as one generated under Paragraph 10.

Certified training programs, such as those administered by the Executive Office of Economic Affairs, the Department of Public Welfare, the Board of Regents, and the Department of Education may be classroom or on-the-job training. In-service state agency training programs can also be certified by the Department of Personnel Administration. For further information on Chapter 31, Section 47A and assistance in designing training programs, contact DPA, Office of Equal Employment Practices, at (617) 727-4528.

**4) Selective Certification.** A selective certification for a civil service position may be requested from the Department of Personnel Administration based on sex, bilingual proficiency, or possession of other special skills or knowledge not easily acquired on the job. The appointing authority making such a request must provide information on the population served, the special qualifications needed for the particular job, and the reasons for the request.

If information is not available as to the bilingual capabilities of applicants on the eligible list, each applicant will be polled by the appointing authority, and a proficiency test for oral and written skills in the specific language will be administered. Guidelines and further information on the use of selective certification can be obtained from the Office of Equal Employment Practices.

### **Authorization of Appointment**

When the appointing authority has selected applicants for appointment from the certification, a report on certification is submitted to the Personnel Administrator. This report must state the reasons for selection of any persons whose rank on the certification is below that of those who are not selected.

## Civil Service

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### Layoff

When the decision is made by the appointing authority to abolish positions, or it is determined that funds are insufficient to continue filling existing positions, the appointing authority makes the initial decision as to which titles will be affected by layoff. Once that decision is made, any person(s) filling the affected title on a provisional basis must be separated from the title first. If a provisional employee has a permanent appointment from which s/he has been provisionally promoted, s/he will return to his or her permanent position; if the provisional employee is without permanent status in any position, s/he will be terminated without further civil service rights.

After any provisional employees are terminated from the affected title, any employees in *temporary* status (See "Glossary of Personnel and Civil Service Terms") in the title will be returned to their permanent positions or terminated.

In the case where all positions in a title selected for elimination are filled by persons holding the position in permanent status, the following procedures must be followed:

- If the position is at the entry-level in a job series, termination is to be made in inverse order of civil service seniority, apart from disabled veterans in the title, and a hearing must be held pursuant to the Massachusetts General Laws, Chapter 31, Sections 31 and 41.
- If the position is at a level above entry level in the title series, the permanent employee with the least civil service seniority must be offered demotion, provided s/he has more civil service seniority than a permanent employee in the title(s) below (M.G.L., Chapter 31, Section 39). Permanent civil service employees who have been laid off or demoted pursuant to M.G.L. Chapter 31, S.39 have reinstatement rights in their former departmental units under the same law and re-employment rights to the civil service title from which they have been separated in other departmental units (M.G.L. Chapter 30, Section 40).

### Termination of Appointment

The Personnel Administrator has the authority and the obligation to terminate the appointment of any provisional employee found after investigation to be unqualified, and of any employee (whether provisional, temporary, or permanent) whose appointment the Personnel Administrator finds to be in violation of law or personnel administration rules.

### Appeals

The Civil Service Commission is an appellate body which hears appeals from actions of the Department of Personnel Administration filed by those persons whose employment status has been affected by actions pursuant to the Massachusetts General Laws, Chapter 31, Section 2(b). Appellants may protest the validity of a civil service examination, the finding of ineligibility for an examination, or the Personnel Administrator's approval of an appointing authority's appointment/selection process. In appeals concerning the selection process, the appointing authority is an appellant before the Commission along with the Personnel Administrator's representative. The Commission also hears appeals from disciplinary actions of the appointing authorities pursuant to Massachusetts General Laws, Chapter 31, Sections 42 and 43.

### Additional Information

For additional information regarding civil service, consult Massachusetts General Laws, Chapter 31 and the Personnel Administration Rules.



# Collective Bargaining

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Collective bargaining governs the Commonwealth's workforce along with the civil service/merit system. The statutory framework for collective bargaining for state employees is contained in Chapter 150E of the General Laws which was enacted in 1973. Chapter 150E extends to all employees the right to organize and bargain collectively over wages, hours, and other terms and conditions of employment.

- *Managerial employees* are excluded from the coverage of the Law because they formulate policy. Such persons can generally be identified by their job group, i.e., M I-XII.
- *Confidential employees* are excluded because they directly assist and act in a confidential capacity to a managerial employee (e.g., secretary to an agency head). No employee is considered to be confidential unless approved by the Office of Employee Relations.

Under the law, the Secretary of Administration and Finance is the "employer" of Executive Branch employees. The Office of Employee Relations (OER) is the Secretary's designee in all labor relations matters and, as such, is the only agency authorized to negotiate collective bargaining agreements or to bind the Commonwealth or its agencies prospectively to any form of labor agreement.

More than 90 percent of the state's employees have collective bargaining rights. The collective bargaining law is administered and enforced by the state Labor Relations Commission, a quasi-judicial agency which fulfills a role similar to that performed by the National Labor Relations Board.

All bargaining unit employees in the Executive Branch, with the exception of Higher Education, are assigned by job title to one of the twelve statewide bargaining units established by the Labor Relations Commission. A list of these assignments is available from OER. Each bargaining unit is represented by a union or association selected through election by employees.

## Collective Bargaining Agreements

Currently, all bargaining units are covered by collective bargaining agreements. These agreements generally continue in effect until a successor agreement is negotiated. The agreements determine the wages, hours, and benefits of employees in the units covered by the agreements. The agreements are binding on all state managers and supervisors who supervise bargaining unit employees and cover a wide range of topics, including:

- compensation (see page A25)
- criteria and procedures for provisional promotion
- regulation of paid leave benefits (vacation, personal, sick, union, etc)
- procedures for transfers and shift and day off selection
- work schedules, overtime, and compensatory time off
- holidays
- health insurance contributions
- affirmative action/non-discrimination
- layoff
- disciplinary procedures

Contract negotiations are conducted by the Office of Employee Relations and the various unions representing state employees. Prior to the commencement of negotiations for new contracts, OER generally contacts the management of affected agencies, soliciting their input toward a unified management strategy for negotiations. Representatives of the management of major agencies are usually invited to participate in the actual negotiations.

## Collective Bargaining

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### Grievance Procedure

Each of the collective bargaining agreements contains either a four or five step grievance procedure culminating in final and binding arbitration. The first step of the grievance procedure is generally within the first level of management. The final step, short of arbitration, is the Office of Employee Relations.

Grievances may be filed by an employee and/or by the union where a violation of the contract is believed to have occurred.

As a practical matter, however, many grievances are filed which do *not* directly relate to any contract violation but rather call into question practices or policies which are perceived as unwise or unfair. Such grievances should not be dismissed out of hand.

It should be noted that the grievance procedure is intended to serve a number of purposes besides that of providing a forum for redress of literal violations of specific contract provisions. A primary purpose of the procedure is the positive effect it can have when employees perceive that management listens to them and takes their concerns seriously, even if management concludes by disagreeing and denying the grievance. Another valuable by-product of the grievance procedure is the management information which can be gained by analyzing the nature and location of employee dissatisfaction.

Rather than merely examining whether an employee can prove a specific violation of a contract provision, where appropriate, management should attempt to identify and resolve the underlying reason which prompted the filing of the grievance. In addressing any grievance, management should consider whether there is any means possible by which the employee's legitimate concern can be accommodated without jeopardizing the objectives of the management action which caused the grievance to be filed.

There are many occasions on which grievances must be formally answered and denied. Once settlement attempts have failed or been deemed inappropriate, the person deciding the grievance must confine the grievance answer to the specific contract violation alleged to have occurred. *The grievance answer must be in writing, and should be limited to the specific question of whether the contract has been violated.*

Managers should note that the filing of a grievance does *not* halt implementation of any proposed management action. For example, management may proceed to promote or discharge an employee even though a grievance has been filed challenging the action. In the event that the grievance is successful, the grievant will generally be "made whole" for any losses incurred as a result of the contract violation. For this reason, management is frequently ordered by an arbitrator to provide back pay to employees who were disciplined or not promoted in violation of a contract provision.

The Office of Employee Relations can arrange training sessions on request for managers and supervisors who are involved in the handling of grievances.



### Prohibited Practices

Restrictions on managerial rights are contained in the various contracts. Additionally, the collective bargaining law extends rights to employees and provides a method of enforcement of such rights in the Labor Relations Commission. These statutory provisions fall into two broad categories:

- *Discrimination, Interference, Coercion.*

Employees have the right to organize and engage in concerted activity for the purpose of bargaining over wages, hours and other terms and conditions of employment. Management may not interfere with these rights by discriminating against employees who engage in such protected activity. For example, an employee may not be disciplined or denied a promotion simply because s/he files large numbers of grievances.

- *Refusal to Bargain.* The Commonwealth is required by law to bargain with certified unions over wages, hours and other terms and conditions of employment. Such bargaining is conducted by the Office of Employee Relations (with representation from agencies) in the context of periodic contract negotiations which result in the collective bargaining agreements described earlier.

All of the agreements negotiated by OER contain "zipper clauses", in which the union acknowledges that during the negotiations leading to the contract it had the opportunity to bargain over all appropriate subjects and that the union waives its right to any further bargaining for the life of the contract (generally three years).

The Labor Relations Commission has, however, held that such a contract provision can waive bargaining rights only over those circumstances in existence at the time the contract is signed. For example, a union may sign a contract containing no provisions governing transfer of employees. Normally, the union could not require the Commonwealth to bargain over transfer procedures during the life of the contract. If, however, the Commonwealth changed a long-standing practice regarding the handling of transfers during the life of the contract, the union could require that the Commonwealth bargain over the change.

Should the Commonwealth fail to notify the union of the change prior to implementing it, thereby depriving the union of the opportunity to bargain over it, the Commonwealth would commit a prohibited practice, and the Labor Relations Commission could order the Commonwealth to rescind the change and to restore the status quo pending negotiations with the unions. Naturally, such an order can be quite disruptive to effective management.

In order to avoid such results, managers should make a practice of notifying the appropriate unions in advance of any contemplated changes which affect terms or conditions of employment. If the unions wish to bargain over the impact of the change, they will have the opportunity to make that request to OER. If the union fails to request bargaining, they will be found to have waived their rights. In either case, the manager wishing to implement the change will be protected from the disruptive effects of a cease and desist order.

## Collective Bargaining

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### Labor Management Committees

Although only the Office of Employee Relations is authorized to bargain with unions representing state employees, individual agencies and the unions representing agency employees have found periodic labor management meetings at the agency level to be effective in improving relations. Such meetings, held between agency managers and local union officials, are not a substitute for contract negotiations or the grievance procedure. Rather, they are intended to supplement those devices by providing a forum for the discussion of local issues affecting only a particular agency. Through regular discussion and sharing of information, management and labor can often address local issues which might have been lost in statewide negotiations and are not appropriate for the grievance procedure. Although such local committees lack the authority to enter into binding labor management agreements, they often lead to shared understanding and joint efforts to address common problems such as health and safety and training and career ladders.

### Management Rights

Under the Collective Bargaining Law, the Commonwealth is obligated to bargain in good faith with employee representatives over wages, hours, and terms and conditions of employment. The Law *does not*, however, require the Commonwealth to make concessions or to agree to any union proposal with which it disagrees. The Law simply requires that the Commonwealth bargain in a good faith attempt to reach an agreement. The Law establishes a process of bargaining; it does not dictate any particular result.

The only limits placed on management rights by the various contracts are limits to which management has agreed. Under each of the collective bargaining agreements applicable to state employees, management has retained all of the typical management rights to hire, fire, promote, transfer, change work schedules, lay off, determine job content, and direct the work force. However, the Commonwealth has agreed, and the contracts require, that management exercise these rights using uniform criteria and procedures.

Management has the right to decide which employees are to be promoted, but it has agreed to promote only the most able employees applying for the position. Management has the right to discharge an employee, but it has agreed to do so only when there is just cause for such an action. Similarly, management has the right to change the work schedule of employees, but has agreed that it will give 10 days advance notice to the employees whose schedules are to be changed.

**For the most part, the restrictions placed on management by the Collective Bargaining Law and the various contracts are restrictions on the process by which management implements decisions rather than on the decisions themselves.**

Even typical managerial decisions concerning such subjects as reorganization, reduction in force, promotions, productivity standards and codes of conduct are laden with labor relations issues. When managers ignore procedural labor relations requirements, the implementation of such decisions can be delayed or, in some cases, rescinded after implementation. If, however, OER or departmental labor representatives are contacted early in the process, a plan for effective implementation of management decisions can almost always be developed which achieves the management objective without adversely affecting employee rights.



# Courses and Procedures for Disciplinary Action

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Contrary to "conventional wisdom", state employees enjoying tenure through statute or collective bargaining agreements *can* be disciplined or discharged for failure to perform assigned responsibilities or for actively disruptive behavior. Chronic absenteeism or tardiness, refusal to carry out direct orders or instructions, inability to perform assigned tasks and abusive or violent behavior are all accepted grounds or causes for disciplinary action such as demotion, suspension, or discharge.

The purpose of the procedures established by law or contract is to discourage the discharge or discipline of employees without proper consideration and evaluation. If a manager follows these procedures carefully, doing his or her "homework" at each step, appropriate disciplinary action can be taken and upheld.

For purposes of describing these disciplinary procedures, the following definitions should be used:

**Collective bargaining tenured.** An employee who has occupied a position in any bargaining unit for six or more consecutive months.

**Statutory tenured.** An employee who:

- holds a permanent civil service appointment whether or not the employee is currently occupying that position; or
- is a veteran and has held a civil service exempt position for three years or more (see General Laws Chapter 30 Section 9A); or
- is permanently employed for more than six months in a civil service exempt position in any institution in the Departments of Mental Health, Public Health, Public Welfare, Correction, Youth Services, or either of the Soldiers Homes (see General Laws Chapter 30 Section 9B); or
- is permanently employed for three years as a teacher in any institution in the Departments of Mental Health, Public Health, Public Welfare, Correction or Youth Services (see General Laws, Chapter 30, Section 9D).

**Non-tenured.** An employee who has not occupied a position in a collective bargaining unit for six or more consecutive months *and* who has not acquired statutory tenure under any of the four provisions cited above.

## **Non-Tenured Employees:**

### **Standards for Disciplinary Action**

The appeal procedures available to a non-tenured employee who has been disciplined are very limited. The employee has no right to appeal the basic fairness of disciplinary action, either to the Civil Service Commission or through the grievance procedure under any collective bargaining agreement.

A non-tenured employee may, however, successfully appeal discipline if s/he can establish that the discipline was motivated by improper factors such as age, race, sex, mental or physical handicap, or union activity.

The appeal routes that may be available to a non-tenured employee who believes s/he has been unlawfully discriminated against include the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Labor Relations Commission, and the collective bargaining grievance procedure.

In the absence of such improper motivation, however, an appointing authority may discipline or discharge a non-tenured employee simply by informing the employee in writing of the action to be taken and the general reasons for such action (see Attachment 1, page A15).

## Disciplinary Action

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### Tenured Employees:

#### The Legal Framework for Discipline and Routes of Appeal

The right to discipline employees in state service is vested by statute in the various appointing authorities or, in some cases, their designees. The right to discipline employees is not, however, unlimited. The vast majority of state employees have vested tenure rights in their positions and may not be suspended or removed unless the appointing authority can establish that "just cause" exists for such action.

The legal standard of "just cause" has both substantive and procedural elements. Substantively, the punishment must fit the crime. For example, the discharge of an employee for one unexcused absence is not likely to be upheld because the penalty of discharge is grossly excessive in relation to the offense.

Procedurally, just cause requires that there be no "surprises" to the employee. Employees must be made to know what is expected of them and the likely consequences of any failure to meet those expectations.

If an employee's tenure rights arise under Commonwealth Law (General Laws, Chapters 30 and 31), s/he may appeal a suspension or removal to the Civil Service Commission. If an employee's tenure rights arise under a collective bargaining agreement, s/he may appeal through the grievance procedure of the applicable contract. *If an employee has tenure rights under both the Civil Service law and a collective bargaining agreement, s/he may elect to follow **either** the Civil Service or the contractual appeal procedure.*

**S/he may not follow both.**

Under the *collective bargaining* grievance procedure, a tenured employee who has been suspended, demoted, or discharged may file a grievance directly with the agency head or his or her designee. The collective bargaining contracts specify the time limits within which an employee may file a grievance or an appeal. If the grievance is denied, it may be appealed to the Office of Employee Relations (OER). If the grievance is denied by OER, the union (*not* the employee) may decide to appeal to final and binding arbitration.

Under the *statutory procedure*, a tenured employee is entitled to receive a hearing with the appointing authority *before* any discipline more severe than a five day suspension can be imposed. If, as a result of that hearing, the appointing authority decides to discipline the employee, the employee may appeal directly to the Civil Service Commission. The employee must file this appeal within ten days of receipt of the written decision of the appointing authority.

An employee with statutory tenure may be suspended for five days or less without a prior hearing. The employee may, however, request a hearing within forty-eight hours. If the appointing authority's decision is unsatisfactory, the employee may appeal to the Civil Service Commission within ten days.



### Tenured Employees:

#### General Standards for Disciplinary Action

The Chronic Problem Employee: Arbitrators, the Civil Service Commission, and the Courts affirm disciplinary action as long as several essential elements are present:

- *Sufficient cause.* This element must exist to discipline an employee involved in continuing inappropriate behavior patterns, such as repeated tardiness, absenteeism, or substandard performance. Such cause is established by: 1) building a record of the employee's knowledge of the standard of behavior and performance expected of him or her; 2) consistently administering the standard; and 3) providing clear warnings that state the exact areas of unacceptable behavior and the date(s) of this behavior. The employee must be given full opportunity to both explain his or her actions and achieve satisfactory reform or rehabilitation.
- *Progressively more severe discipline.* The initial discipline must relate to the severity of the act, and then more severe penalties should be meted out for each additional offense. If, after warnings and disciplinary actions, the employee's conduct does not improve, s/he may be terminated.
- *Consistency and communication.* Uniform standards of conduct and performance must be defined and applied to all employees. Each appointing authority should inform his or her employees of the behavior or conduct considered unsatisfactory. Should any change be made in the standards, employees should be informed of that change. A lack of consistency in setting and enforcing departmental standards could result in the overturning of a manager's decision to discipline an employee.
- *Documentation.* All facts and events must be documented as the case develops. Each occurrence of undesirable behavior and its adverse effects on departmental operations should be duly recorded by the supervisor and summarized in all subsequent actions. Verbal warnings should be noted with the date of issuance. Most cases that are overturned are the result of insufficient documentation on the part of the supervisor and/or appointing authority.

- *Warnings.* If there is cause for discipline or an employee based on chronic behavior, action taken should be preceded by a *minimum of two warnings.*

Warnings fall into two categories: the informal verbal warning and the formal written warning. At least one formal written warning should precede disciplinary action.

The first warning (the informal verbal warning) should:

- be in the form of a structured conversation at a time and place set aside from the regular work site; and
- ensure that the employee fully understands the charges of misbehavior, the necessary response through improved performance within an agreed period of time, and the consequences of failure to respond; and
- be documented by a letter or memo to the file.

The second warning (the formal written warning) should:

- be in a letter given to the employee stating that if, within a stated period of time, performance does not improve or the undesirable behavior is repeated, the employee will be suspended or discharged; and
- cite the content of the previous verbal warning and give strong indication of the specific consequences of further misconduct; and
- be handed to or acknowledged by the employee through his or her signature or through some other written means; and
- become a part of the employee's permanent record (see Attachment 2, page A16).

Appointing authorities must permit an employee to file a counter-statement.

## Disciplinary Action

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### Forms of Discipline

#### *Suspension without pay*

Suspension without pay normally precedes the discharge of an employee, except in the case of acute offenses. The number and length of suspensions depend on the appointing authority's judgment of the seriousness of the offense and should be applied consistently for similar offenses.

For those employees enjoying statutory tenure, the notice of suspension for a period not to exceed five days without prior hearing must be written, and must contain:

- specific reason(s) for suspension; and
- notification that a hearing may be requested before the appointing authority within forty-eight hours of receipt of the suspension notice; and
- a copy of sections 41, 41A, 42, 43, 44, and 45 of Chapter 31 of the Massachusetts General Laws (see Attachment 3, page A17).

#### *Discharge, Demotion or Suspension for More Than Five Days*

These actions are appropriate when informal and formal warnings followed by one or more brief suspensions have failed to correct the problem. Such actions may also be appropriate without prior warning in special circumstances as described later in this section.

An appointing authority who wishes to demote, discharge, or suspend an employee whose only tenure rights arise under a collective bargaining agreement may, but is not required to, hold a hearing prior to imposition of such disciplinary action. The employee must be given a letter which:

- contains the specific disciplinary action imposed; and
- contains the specific reason for the discipline; and
- provides notice of the right to file a grievance under the collective bargaining agreement (see Attachment 4, page A18).

An employee who holds statutory tenure may not be demoted, discharged or suspended for more than five days unless s/he is afforded a hearing by the appointing authority prior to imposition of the disciplinary action. Such an employee must be given a letter which:

- contains a statement of the specific reasons for the contemplated action; and



- contains notification of the employee's right to a full hearing before the appointing authority; the date, time, and place of the hearing (written notice of this hearing must be received by the employee at least three days before the date of the hearing); and an indication that the appointing authority must render his/her decision within two days of the hearing (seven days after the receipt of the hearing officer's report, if the appointing authority does not conduct the hearing) with reason(s) stated clearly and specifically; and
- must be accompanied by a copy of sections 41, 41A, 42, 43, 44, and 45 of Chapter 31 of the Massachusetts General Laws.

Note: A statute in 1983 added section 41A to Chapter 31. This section provides for the original disciplinary hearing to be held by a hearing officer rather than the appointing authority, if the appointing authority and the subject employee so request. The statute further provides that if the new procedure is followed, there shall be no further appeal to the Civil Service Commission (see Attachments 5 and 6, page A19 & A20).

### **For Employees with Retirement Rights**

Before any removal from a position becomes effective, employees who have 20 years of service, or who are over age 55 with 15 years of service, or who are veterans with more than ten years of service as a member of the retirement system may have vested retirement rights. For these employees, the filing of notice of reasons with the Retirement Board is required.

### **Special Circumstances**

*Single acts of violence, dishonesty, disruption or threats* may lead directly to dismissal even in the absence of prior warnings or suspension.

Employees are presumed to know that they may not steal, assault other employees, or abuse their positions for private gain. Employees are also presumed to know that they may be discharged if they engage in such conduct. When immediate dismissal is found to be warranted after investigation, the following procedures should be followed:

- employees with collective bargaining tenure may be discharged immediately simply by giving them a letter as outlined in (Attachment 4, page A18).
- employees with statutory tenure may be suspended immediately for up to five days under the procedures previously outlined. The appointing authority should simultaneously institute the appropriate discharge procedures.

*Misconduct in office resulting in indictment by a Grand Jury* is grounds for indefinite suspension without pay under the provisions of Chapter 30, Section 59 of the Massachusetts General Laws. In such instance, no hearings are necessary. If, however, the employee is not convicted, s/he is automatically entitled to reinstatement with full back pay. For this reason, it is generally advisable to pursue the normal procedures for suspension and discipline rather than simply relying on the outcome of the criminal process. It is important to note that the standard of proof to uphold a disciplinary action by the appointing authority as having just cause is "preponderance of the evidence." It is therefore unwise to delay disciplinary action in order to rely on the result of a criminal proceeding in which the standard for guilt is "beyond a reasonable doubt" and in which admissible evidence may be limited.

## Disciplinary Action

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*An unauthorized absence for a period in excess of 14 days by any employee* is considered abandonment of the position under the provisions of General Laws Chapter 31, Section 38. An unauthorized absence is one for which no notice has been given or which has not been approved by the appointing authority. In the event of such an unauthorized absence, no discharge proceedings need be initiated so long as the provisions of G.L. C.31 s.38 are followed. Unless the appointing authority subsequently decides to reinstate the employee, s/he is considered to have resigned.

*Alcoholism* deserves special attention. The employee whose inappropriate behavior or inadequate performance is the result of alcoholism should be placed on notice that the appointing authority is aware that s/he has an alcohol problem, that s/he is expected to seek appropriate assistance, and that if s/he fails to do so or to make reasonable progress, the consequence is disciplinary action. Alcoholism itself, however, is not grounds for disciplinary action. Rather, the work performance and attendance of the employee are the focus of disciplinary action. For more information on this subject, consult the Employee Assistance Section of this Handbook.

### **Training and Technical Assistance**

Training and technical assistance in dealing with disciplinary problems may be obtained from the Office of Employee Relations, (617) 727-5403.



## Disciplinary Action

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### Attachment 1: Suggested Letter of Discharge for Non-Tenured Employees

(Date)

Dear Ms. Smith:

This is to advise you that I am terminating your employment with  
the \_\_\_\_\_  
effective at the close of business \_\_\_\_\_  
(date)

This action is taken because of your unsatisfactory \_\_\_\_\_  
\_\_\_\_\_ which we have previously  
(reason)  
discussed.

Signed: \_\_\_\_\_  
(Appointing Authority)

## Disciplinary Action

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### Attachment 2: Suggested Form For Formal Warning

(date) October 16, 1985

Dear Mr. Smith:

On October 3, 1985 in my office, I warned you informally about your  
(date) (place)  
tardiness. At that time, we mutually agreed that you would improve your required  
(infraction)  
attendance during established hours of work by October 15, 1985. During this  
(performance standard) (time)  
period, it has come to my attention that you have been late four times: on  
(infraction)  
October 6, October 9, October 11, October 12. If your conduct does not  
(date(s))  
significantly improve by November 1, 1985, you may be suspended without pay  
(disciplinary action)  
for two days.

This letter is the formal warning that such action against you is being considered. Please acknowledge the receipt of this warning. You may file a counter statement.

Signed: \_\_\_\_\_  
(Appointing Authority)

Attachment 3: Suggested Form of Letter of Suspension  
For A Period Not To Exceed Five Days

(date) November 16, 1985

Dear Mr. Smith:

On October 3, 1985, I warned you informally about your tardiness. As your  
(date) (infraction)  
performance in this area did not improve, I wrote you a first formal warning on  
October 16, 1985 (copy attached) and a second formal warning on November 2,  
(date) (date)  
1985 (copy attached). In these warnings, I stated that you would be suspended  
without pay for two days if your performance had not improved by November 15,  
(disciplinary action) (date)  
1985. On November 8, 1985 and November 10, 1985, you were again late for  
(infraction)  
work. This letter is a formal notice that your suspension will take effect the next  
(disciplinary action) (time)  
working day after you receive this letter.

You may request a hearing before \_\_\_\_\_  
(Appointing Authority)  
within 48 hours of receipt of this letter. I have attached a copy of sections 41,  
41A, 42, 43, 44 and 45 of Chapter 31 of the General Laws.

You may file a grievance under the Commonwealth/ \_\_\_\_\_  
(name of union) collective bargaining agreement  
within \_\_\_\_\_ days of your receipt of this letter.  
(see Article 23, Sec. 2)

Signed: \_\_\_\_\_  
(Appointing Authority)

## Disciplinary Action

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### Attachment 4: Sample Discharge Letter for Non-Permanent, Bargaining Unit Employee (Non-Probationary)

(date)

Dear Ms. Smith:

This will advise you that I am hereby discharging you from your employment with the Department effective at the close of business on Friday, March 30, 1985. This action is taken for just cause for the following specific reason:

(Statement of specific reasons)

Your rights in this matter are in Article 23 of the Commonwealth/(name of Union) collective bargaining agreement.

Signed: \_\_\_\_\_  
(Appointing Authority)

## Disciplinary Action

### Attachment 5: Suggested Notice for Permanent Employees Only: Hearing for Discharge, Suspension for Six or More Days, Lowering in Rank or Compensation Without Consent in Writing

(date) December 1, 1985

Dear Mr. Smith:

Your supervisor, Elsie Coble, has requested that I take disciplinary action  
(name)  
against you on \_\_\_\_\_ because of  
(date)  
your alleged tardiness. By law (Chapter 31, Section 43), you are entitled to a full  
(alleged infraction)  
hearing by the appointing authority. Such hearing will be held on December 10,  
(date)  
1985 in my office, the McCormack Building, Room 312. Two days after the  
(place)  
hearing is completed, I shall give you a written notice of my decision, stating fully  
and specifically the reasons for it. Within ten days of receiving my decision, you  
may, if you desire, appeal in writing to the Civil Service Commission and request  
a hearing before a member of the Civil Service Commission.

I have attached a copy of sections 41, 41A, 42, 43, 44 and 45 of Chapter  
31 of Massachusetts General Laws.

Sincerely,

\_\_\_\_\_  
Appointing Authority

If a hearing officer rather than the appointing authority conducts the hearing, the  
following sentence should be substituted:

"Within seven days after receipt of the report of the hearing officer, I shall give  
you written notice of my decision stating fully and specifically the reasons for it."

## Disciplinary Action

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### Attachment 6: Sample Discharge Letter for Statutory Tenured Employees

(date)

Dear Ms. Smith:

By letter dated \_\_\_\_\_ I advised you that I contemplated discharging you from your employment for reasons stated in that letter. On \_\_\_\_\_ a hearing was held before me (or my designee).

Based upon the testimony and evidence presented at that hearing I find that you (describe misconduct or non-performance).

For these reasons I hereby discharge you from your employment with the \_\_\_\_\_ effective \_\_\_\_\_

Under the provisions of G.L. Ch. 31 Section 41-45 you may submit an appeal in writing within ten days to the Civil Service Commission.

You may file a grievance under the collective bargaining agreement within \_\_\_\_\_ days accompanied by a signed waiver of your right to appeal to any other forum.

(Signed) \_\_\_\_\_  
Appointing Authority



# Hours of Employment and Overtime

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## Full-time Employment

The regular workweek of most employees is restricted to five “tours of duty” (workshifts) totalling either 37½ or 40 hours, as established by title and work location. Each tour of duty is restricted to eight hours within a period of ten consecutive hours.

Overtime is paid at the rate of one and one-half times the employee’s regular rate of pay for work exceeding 40 hours in one week or eight hours in one tour of duty. Employees whose regular workweek is 37½ hours receive additional compensation at their regular rate of pay for time worked up to 40 hours in one workweek or up to eight hours in one tour of duty. Unless specifically provided for in a collective bargaining agreement, compensatory time off in lieu of overtime is prohibited. Curtailment of one tour of duty to offset excess hours in another is also prohibited.

Employees called back to work after completion of their regular shift and prior to their next scheduled shift receive call-back pay as provided in applicable collective bargaining agreements; if exempt from collective bargaining, they receive a minimum of two hours’ pay. All overtime service must have the prior written approval of the appointing authority and the appropriate Executive Office Secretary (Form AF-6).

Some state employees and managers are exempt from the above regulations regarding hours and overtime pay, including:

- Certain managers, such as superintendents, assistant superintendents, and deputy superintendents in mental health, public health and correctional institutions, exempt from the eight hour tour of duty and the 40 hour workweek under the provisions of Chapter 149, Section 30A of the Massachusetts General Laws;

- Under the provisions of certain collective bargaining agreements, employees in some cases exempt from certain collective bargaining agreements;
- Employees participating in an approved flexible hours program, exempt from the restriction of eight hours within a ten hour period;
- Managers in grades M-IX through M-XII not eligible to receive overtime compensation under any circumstance. Managers in grades M-V through M-VIII not otherwise exempt from overtime compensation by Chapter 149, Section 30B are not eligible to receive overtime unless they are incumbents of positions listed by title and position number on a list maintained by the Personnel Administrator with the approval of the Commissioner of Administration. The inclusion of a position on the list requires the submission of a detailed justification by the appointing authority.

Authorized meals during the course of approved overtime work are reimbursed as follows: breakfast, \$2.00; lunch, \$3.00; dinner, \$5.00; midnight meal, \$2.00.

## Additional Full-time Information

Employees in positions covered by collective bargaining agreements should refer to the applicable agreement for further information regarding hours and overtime. Managers and others exempt from collective bargaining can find additional information in the following sources:

- Massachusetts General Laws, Chapter 30, Sections 24C and 46G
- Massachusetts General Laws, Chapter 149, Sections 30A and 30B
- Administrative Bulletin 74-4
- Department of Personnel Administration Instruction MS 001
- “Red Book” Rules and Regulations

## Hours

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### **Part-time Employment**

A regular part-time employee works 50 percent or more of the hours in the workweek of a regular full-time employee in the same title and location and receives the same benefits as a full-time employee on a pro-rata basis. An intermittent employee works less than 50 percent of the hours in a work year authorized for full-time employees and does not receive benefits.

Part-time employees are paid on a pro-rata basis, receiving that proportion of the pay of full-time employees that their service bears to full-time service. For example, a part-time employee working three-fifths of the regular workweek is paid three-fifths of the normal, full-time salary for his or her title. A regular part-time employee entitled to a step-rate increase advances to the next step after 52 weeks of creditable part-time service and receives the proportion of that rate that his or her service bears to full-time service.

Benefits are granted to regular part-time employees on the following basis:

- sick leave, personal leave, and vacation leave on a pro-rata basis;
- bereavement leave, voting leave, civic duty leave, military leave, educational leave, and maternity leave on the same terms and conditions as full-time employees;
- days off with pay only for those holidays falling on their regularly scheduled work days;
- the same life and health insurance at the same cost to part-time employees who work 18.75 hours or more per week as is granted to full-time employees; and
- for retirement benefits in the same manner as full-time employees. For the purpose of determining eligibility for retirement and retirement benefits, part-time service is converted to its equivalent in full-time service.

Regular part-time employees are eligible to participate in employee training programs established by the Commonwealth.

Refer to the section of this Handbook dealing with Civil Service for information regarding the Civil Service status, rights and benefits of a regular part-time employee appointed from a Civil Service eligible list pursuant to the provisions of Chapter 31 of the Massachusetts General Laws.

The conversion of a full-time employee to part-time status or vice versa is subject to the approval of the employee's appointing authority. The appointing authority may also authorize the filling of a full-time position by one or more part-time employees.

The combined hours of all part-time (and/or intermittent) employees splitting the same position must not exceed the total number of hours authorized for the full-time position. All such appointments must be made pursuant to applicable provisions of Civil Service law, collective bargaining agreements and current fiscal controls.

### **Additional Part-time Information**

For additional information regarding part-time employment in the Commonwealth, those employees in positions covered by collective bargaining should refer to the appropriate agreement. Managers and others exempt from collective bargaining should refer to the "Red Book". Other sources of information are:

- D.P.A. "Regulations Governing Part-Time Employees"
- Massachusetts General Laws, Chapters 30 and 31
- Massachusetts General Laws, Chapter 7, Section 6F



### Flextime Employment

A flextime or flexible hours program refers to the replacement of fixed arrival and departure times by a schedule of working hours chosen by employees within parameters developed for their work units. Flextime programs often include the option of working a longer tour of duty on one day to offset a shorter tour of duty on another day in the same week, without receiving overtime for the extended day or being penalized for the shortened day.

There are several terms common to flextime programs:

- *"Bandwidth"* is the span of time between the earliest arrival time and the latest departure time authorized for the work unit.
- *"Core time"* consists of those hours during which all employees must be present in the office or on a field assignment. Absences during core time may not be offset by additional hours worked; they must be charged to vacation, sick, personal, or other appropriate leave or leave without pay.
- *"Flexband"* is a span of time within the bandwidth but exclusive of core time (i.e., time which may be used in a flexible manner).
- *"Office hours"* refers to the requirement that departments which deal with the public must be open at least from 8:45 AM until 5:00 PM. Flextime plans therefore specify the minimum percentage of employees needed from 8:45 AM to core time, during lunch, and from core time to 5:00 PM.

The parameters of a flextime plan are determined by considering the degree of interaction among employees in the work unit, different work units, and employees and the public or other agencies. These parameters include:

- the bandwidth of the work day;
- core hours;
- whether carry over of extra hours will be allowed; and
- whether to have a lunchtime flexband.

Other considerations include the method of time keeping to be used, and what positions, if any, should be excluded from participation in flextime due to the nature of the work performed or the need to have employees present during standard office hours.

Although the needs of the work unit are of primary importance in addressing these issues, the advantages to employees of participating in a flextime program must also be considered. Too short a flexband before or after core time negates the advantages.

Employees choosing to participate in a flextime plan are exempted from the provisions of Chapter 149, Sections 30A and 30B requiring overtime payment for work in excess of an eight hour tour of duty within ten consecutive hours. These employees are, however, entitled to overtime payment for overtime work authorized by their departments. While they may elect to shorten their hours in another day in the workweek to offset such overtime, they cannot be required to do so in order to avoid payment of overtime.

Flextime plan employees must take at least 30 minutes for lunch. A flextime plan may retain the 45 minute lunch period provided to employees working standard office hours, or may include a flexband at lunchtime ranging from the minimum of 30 minutes to the full time period between morning and afternoon core hours.

Except for the last day of the workweek, flextime employees who are absent for a full day are charged with accrued leave or leave of absence without pay on the basis of a full seven and one-half (or eight) hour day. On the last workday of the workweek, charges are the difference between total hours worked and 37½ (or 40) hours or core time, whichever is greater. Extra hours worked earlier in the week may not be used to offset absences during core hours on the last workday of the workweek. Employees in a flextime plan shall not be paid for a holiday if they are on leave without pay for any part of core time on the work day immediately preceding or following the holiday.



## Hours

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Participation in a flextime plan is voluntary. Employees who fail to adhere to program requirements may be excluded from participation and be required to work standard office hours. The flextime plan for a department (or one of its subdivisions) must be developed in consultation with the affected employees. The plan must be reviewed by officials of all unions having employees in work units covered by the plan. The approved flextime plan, including a statement of limitations regulating employees' work schedules such as core hours, the right of supervisors to require employee attendance at meetings, and other rules governing the number of hours worked each day, must be posted in conspicuous locations throughout the agency or work unit covered by the plan. Any flextime plan must include a provision of not less than five working days notice of the program's discontinuance by the appointing authority or the exclusion of certain job titles from participation.

The following procedure should be followed by an appointing authority who wishes to authorize the establishment of a flextime program:

- A person designated by the appointing authority prepares a flextime pilot plan for the agency.
- S/he then calls a meeting of all appropriate unions, (local and statewide officials), some managers, and some employees designated by the unions. They are invited to make suggestions and modifications. An agreed upon pilot plan is then put into effect for a period of approximately three months involving only one or two work areas within the agency.

- A copy of the pilot plan is forwarded to the Coordinator at DPA for record keeping purposes only. During the three months, changes and modifications of the pilot plan can be made without notifying DPA.
- At the end of the pilot period, a standard Request for Approval form is filled out with the agency's final flextime plan. This plan should cover as many employees within the agency as is feasible. The form is sent to the Coordinator at DPA for careful scrutiny and approval by the Personnel Administrator. The plan is also sent to the Office of Employee Relations for review and approval. DPA then sends the plan back to the agency, ready for implementation.
- Any changes made by the agency after that time require DPA approval once again.

Staggered work hours is a form of alternate work schedules, but is not actual flextime. This plan refers to a program under which employees may choose from a fixed schedule of arrival and departure times to which they must adhere on a daily basis. Staggered hours plans do not usually allow employees to carry over additional hours worked one day to the next. Staggered hours programs with no carry over provision and no flexband at lunchtime are really changes in employees' tours of duty and, as such, do not require approval as flextime plans.

### **Additional Flextime Information**

Employees in positions covered by collective bargaining should refer to the appropriate collective bargaining agreement. For additional information regarding flextime, managers and others exempt from collective bargaining should refer to appropriate sections of the "Red Book". Other references are:

- Massachusetts General Laws, Chapter 7, Section 6F;
- "DPA Regulations Governing Flexible Hours Programs for State Employees".

# Compensation

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## Pay Plans for Managers and Non-Managers

As a result of the implementation of various collective bargaining agreements and the establishment of the Management Classification and Pay Plans, managers and non-managers are covered by separate pay schedules.

- *Managers* whose positions have been reclassified and allocated to a class/title in the new management plans are covered by the Management Salary Schedule.
- *Managers* whose positions have not yet been reclassified and allocated continue to be covered by the General Salary Schedule (C.30, S.46).
- *Non-management* classes/titles are normally assigned to collective bargaining units by the Office of Employee Relations, subject to review by the Labor Relations Commission. Incumbents of positions, including those positions that have been designated confidential, are subject to the salary schedules in the collective bargaining agreement covering the unit(s) to which the class/title of their position has been assigned. Those units and schedules are as follows:
  - Unit 1** (Administrative and Clerical) — National Association of Government Employees
  - Units 2** (Service, Maintenance, and Institutional), **4** (Institutional Security), **8** (Social and Rehabilitation) and **10** (Education) — “Alliance”.
  - Unit 3** (Building Trades and Crafts) — National Association of Government Employees
  - Unit 5** (Law Enforcement) — Coalition of Public Safety
  - Unit 5A** (State Police) — State Police Association of Massachusetts
  - Unit 5B** (Metropolitan District Police) — Metropolitan Police Patrolman’s Union and Affiliations
  - Unit 6** (Administrative and Professional) — National Association of Government Employees
  - Unit 7** (Health Care) — Massachusetts Nurses Association
  - Unit 9** (Engineering and Science) — Massachusetts Organization of State Engineers and Scientists

The Department of Personnel Administration, Bureau of Classification, is responsible for the administration of the Management Classification and Pay Plans and the Non-Management Classification Plan. The Office of Employee Relations is responsible for the administration of the salary schedules in all of the collective bargaining agreements.

## Additional Pay Plan Information

For additional information regarding pay plans, consult the following sources:

- Management Classification and Pay Plans: Massachusetts General Laws, Chapter 30, Sections 45, 46, and 46C, as amended by Chapter 699 of the Acts of 1981; and the Department of Personnel Administration Personnel Instruction MS 001.
- The individual collective bargaining agreements for units referred to above.

## Compensation

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### **Recruitment: Hiring at Salary Rates Above the Minimum**

Under certain conditions, persons appointed to management or non-management positions may be recruited at a salary rate higher than the entry level rate for their respective job classifications.

**Appointees to management positions in job groups M-I through M-VIII** may be recruited as follows:

- when the entry level rate is not competitive, the appointing authority may certify that an emergency exists due to the inability to fill the position at the minimum step and may request to recruit above the minimum step of the job group.
- the appointing authority may request to recruit a manager based on the appointee's number of years of previous work experience which is comparable in kind and level to the work to be performed.

In either of the above cases, *the proposed appointee must not have been in the service of the Commonwealth or held a personal service contract with the Commonwealth within the previous 12 month period.* The recruitment, if approved, is applicable only to the current appointee.

**For levels M-IX through M-XII**, appointees may be recruited by appointing authorities at any rate within the job group.

All management recruitments *require* a recommendation by the appropriate Executive Office Secretary and the Personnel Administrator as well as the *prior approval* of the Secretary of Administration and Finance.

### **Additional Information**

For additional information on management recruitment, consult the following sources:

- Department of Personnel Administration Instruction MS 001
- Massachusetts General Laws, Chapter 30, Section 46C, paragraph 5 (Chapter 699, Acts of 1981)



**Appointees to non-management** positions may be recruited above the minimum salary rate of the job group of the position as follows:

- *Emergency recruitment:* The appointing authority requests to recruit, certifying that an emergency exists due to the inability to hire at the minimum or entrance rate. Written justification is required, and the recruitment rate, if approved, *applies to all positions in the class/title to be recruited.* For example: if a recruitment rate of step 4, job group 14, is established for the class/title of Staff Nurse, all new incumbents in Staff Nurse positions in state agencies will be hired at step 4, and all current incumbents in this position who are at steps 1, 2, or 3 will be advanced to step 4.

These emergency recruitment rates are in effect for one year unless rescinded earlier by the Personnel Administrator.

- *Professional recruitment:* The appointing authority may request to recruit someone into a position in a class/title which has previously been designated as professional. A class/title is designated as professional if it requires work that is predominantly intellectual, the consistent exercise of judgment and discretion, and specialized or theoretical knowledge. The step within grade to which the individual is appointed is based on

the number of years of the appointee's previous professional work experience, which is comparable to the kind and level of the duties of the position to be filled. The appropriate Executive Office Secretary and the Personnel Administrator must recommend that a position be designated as professional. The designation is subject to the approval of the Commissioner of Administration. Once the designation has been approved, the recruitment of an individual into a professional position requires only the approval of the appropriate Executive Office Secretary. A list of professional classes can be obtained from DPA.

*An appointee may not be recruited at a salary rate above the minimum if the appointee has been in the service of the Commonwealth or held a personal service contract with the Commonwealth within the previous twelve month period.*

### **Additional Information**

For additional information regarding recruitment of non-management personnel, consult the following sources:

- Department of Personnel Administration Regulations issued February 5, 1975
- Massachusetts General Laws, Chapter 30, Section 46, paragraphs (5) and (5A)
- Amendments to DPA Regulations as titles are added to the professional list.

## Compensation

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### Deferred Compensation

The Massachusetts Employees Deferred Compensation Program allows employees to defer receipt of a certain amount of each year's gross annual income and thereby defer payment of state and federal taxes on this amount. The minimum amount which may be deferred is \$10 per month; the maximum, 25% of the employee's gross annual income, up to \$7,500 per year. For employees age 62 or over who are within three years of retirement, the maximum amount is \$15,000 per year. The employee may increase or decrease the amount deferred at any time and may freeze the account at any time. Taxes on deferred income, interest, and capital gains need not be paid until actual distribution to the employee, usually after retirement when the employee is in a lower tax bracket.

Withdrawals of deferred compensation while actively employed are prohibited, except in cases of extreme financial hardship. Such early withdrawals are subject to approval by the plan coordinator (Public Employees Benefit Services Corporation) and the Oversight Committee (representing the Governor, Treasurer, and Insurance Commissioner). A 4% surrender charge is also levied on the amount withdrawn.

An employee wishing to participate in the Deferred Compensation Program may select one or a combination of the following types of investment:

- *The Guaranteed Fixed Annuity* guarantees refund of the full value of the account, i.e., all accumulated principal and interest, minus an asset fee of 0.45% per year and an administration fee of \$12 per year. Stated minimum interest returns are guaranteed in advance for the ensuing five years. These rates are updated annually, and may exceed the guaranteed minimum. This investment includes the option of lifetime guaranteed monthly payments upon retirement.
- *The Bank Savings Account* guarantees refund of the full value of the account and a minimum guaranteed interest rate not less than the regular passbook rate.
- *Life Insurance* may be added, with premium costs subtracted from taxable income.

The employee also selects the method of payment upon retirement (which may include a combination of options), payment to his/her beneficiary in the event of the employee's death, or payment upon termination from state service. Retirement options include:

- A lump sum payment (minus a 4% surrender charge, except in case of payment to a beneficiary).
- Monthly payments for a specified number of months, with a 36 month minimum.
- Lifetime monthly payments through purchase of the Guaranteed Fixed Annuity.

### Additional Information

Additional information on deferred compensation may be obtained from the Public Employees Benefit Services Corporation, One Salem Green, Suite 410, Salem, MA 01970; telephone (617) 741-0850 or 1-800-732-3760.



# Sexual Harassment

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Managers have the duty to prevent and eliminate sexual harassment in the work place. Conduct constituting prohibited sexual harassment includes unwelcomed sexual advances, requests for sexual favors and other verbal or physical behavior when:

- submission to such conduct is explicitly or implicitly made a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive working environment.

## Patterns of Sexual Harassment

Prohibited sexual harassment appears in a variety of forms and is not limited to conduct by a male toward a female or by a supervisor toward a subordinate. Men as well as women may be victims, and the victim need not be the opposite sex from the harasser. A victim may even be someone other than the person at whom the unwelcome act is directed. Finally, sexual harassment may exist without the effect of concrete economic injury when such conduct interferes with the victim's work or creates a harmful or offensive work environment.

## Managerial Responsibility

The Commonwealth is legally responsible for acts of sexual harassment by its agents, supervisors, and employees unless it can be shown that immediate and appropriate corrective action was taken when such actions became known or should have become known. Additionally, the Commonwealth may be responsible for acts of sexual harassment by non-employees within its control. Agency heads, managers, and supervisory staff are responsible for:

- providing each employee with a copy of the Commonwealth's policy on sexual harassment;
- informing employees that sexual harassment is prohibited conduct which is not to be tolerated or condoned and will result in disciplinary action;
- developing and implementing procedures for receiving, investigating, and resolving informal complaints or reports of alleged sexual harassment within their respective offices, and informing their employees of these procedures; and
- advising employees of the sanctions imposed for engaging in sexual harassment, and of their right to complain about harassment to the agency head or his/her designee;
- informing employees that it is advisable to report, in a timely fashion, conduct which they believe to be sexual harassment;
- specifically informing employees of the requirement, time limits, and procedures for filing formal complaints of sexual harassment or for filing grievances under the collective bargaining agreement;
- informing the agency head or his/her designee immediately upon finding evidence of sexual harassment. The agency head or designee will be responsible for taking immediate and appropriate corrective action, including disciplinary actions, with respect to employees engaging in such prohibited behavior.



## **Sexual Harassment**

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### **Employee Responsibility**

Each employee of the Commonwealth is personally responsible for:

- ensuring that his/her conduct does not sexually harass any other employee, applicant for employment, or other individual in the workplace;
- cooperating in the investigation of informal reporting or formal complaints of alleged sexual harassment by providing any information s/he possesses concerning the matters being investigated; and
- otherwise cooperating with the Commonwealth's efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such unlawful conduct.

### **Sanctions**

Any employee found to have engaged in sexual harassment in violation of this policy is subject to disciplinary action up to and including termination of employment.

### **Additional Information**

For additional information regarding sexual harassment, consult the following:

- Title VII of the Federal Civil Rights Act of 1964
- Governor's Executive Order 200 as amended by Executive Order 240
- Administrative Bulletin 84-3: Guidelines for the Prevention and Elimination of Sexual Harassment in the Workplace

# Affirmative Action

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The Commonwealth of Massachusetts is an *affirmative action, equal opportunity* employer. Title VII of the Civil Rights Act of 1964 prohibits discrimination because of race, color, religion, sex, handicap, or national origin in all employment practices, including hirings, firings, promotions, compensation, and all other terms, privileges and conditions of employment.

On February 25, 1983, Governor Michael S. Dukakis reaffirmed the Commonwealth's position regarding affirmative action. Executive Order 227 mandates that "non-discrimination and equal opportunity are the policies of the Executive Department of the Commonwealth of Massachusetts in all of its decisions, programs, and activities."

Under Executive Order 227, each *appointing authority* is required to provide official support and appropriate personnel to the goal of affirmative action/equal opportunity. Each appointing authority is also directly responsible for the following:

- the appointment of a highly-placed person to supervise the development and enforcement of affirmative action;
- the maintenance and periodic updating of an approved affirmative action plan;
- the filing of appropriate monthly, quarterly, and annual reports; and,
- compliance with guidelines and/or recommendations set forth by the State Office of Affirmative Action.

Inherent in these requirements is the assumption that each appointing authority continually works towards accomplishing the agency or department's affirmative action goals and timetables as set forth by the State Office of Affirmative Action.

## **Additional Information**

For additional information, contact the State Office of Affirmative Action, Room 301, One Ashburton Place, Boston, MA 02108; telephone (617) 727-7441.

# Travel

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Expenses incurred by employees while traveling for business purposes are reimbursable. Transportation costs for travel from home to a temporary assignment are, with limited exceptions, based on the distance between the temporary assignment and the closer of the employee's home or office. Transportation between the employee's home and office is not reimbursable. Permission to travel outside the Commonwealth must be obtained from the appropriate Executive Office Secretary, (form AF-5).

The following items are reimbursable:

- transportation costs, using the most economical means available under given circumstances. When a privately owned automobile is used, mileage is reimbursed. The current mileage rate, as established by applicable collective bargaining agreements and the Commissioner of Administration, is \$ .22 per mile and covers the cost of garages, parking, tolls and other charges.
- reasonable charges, as determined by the Comptroller's Division, for hotel rooms and for tips other than for meals.
- telephone and telegraph charges over \$ .20.
- expenses incurred in operating state-owned cars, including gas, oil, parking, and minor maintenance.

- actual meal expenses, including tips, for employees on full travel status subject to the following limits set on meal expenses: breakfast - \$2.50; lunch - \$4.00; supper - \$7.00. These amounts may vary by collective bargaining unit. Certain individuals are exempt from these provisions and are reimbursed for "reasonable" meal expenses.
- supplemental expenses for approved foreign travel, including passports, visas, photographs, birth and marriage certificates, and inoculations.

## **Additional Information**

Employees who are in positions covered by collective bargaining should refer to the applicable collective bargaining agreement for further information regarding travel expenses. Managers and others exempt from collective bargaining may obtain further information from the following sources:

- Massachusetts General Laws, Chapter 7, Section 28.
- Massachusetts General Laws, Chapter 30, Sections 25 and 25B.
- Administrative Bulletin 74-4.
- "Red Book" Rules and Regulations.



# Personal Service Contracts

## Purchase of Professional Services

Before entering into any agreement to purchase professional services through an "03" (consulting) contract, an appointing authority should be sure that the procedures required by law and regulation have been followed. Failure to do so may result in the contractor's not being paid.

Administrative Bulletin 82-1 sets forth the rules pertaining to contracts for personal services for all state agencies. These rules were issued pursuant to Massachusetts General Law, Chapter 29, Section 29A. It also sets forth the process for selection of contractors. That process must be as competitive as practicable under the circumstances.

The law and rules require, among other things, that the following actions *cannot* be taken retroactively and must be completed *prior* to the contracts being effective:

- A request for Authorization of Service Form (AF-4), with attachments, must be properly completed and signed by the appointing authority and cabinet secretary or his/her designee.
- The approved AF-4 must be submitted to the Comptroller's Office and **date-stamped**. *No services provided under the contract prior to the date-stamp can be legally remunerated.*

Prior to any payments being made, the AF-4, together with a properly executed written contract that includes the payment rate authorized on the AF-4 by the Department of Personnel Administration, must be approved by the appointing authority and cabinet secretary and submitted to the Comptroller.

Contracts for legal services must be approved by the Attorney General.

No personal services contract can exceed one year in duration unless a prior written waiver is approved by the Commissioner of Administration.

Contracts for professional services with a maximum obligation of \$40,000 or more must be competitively awarded either by the solicitation of written proposals from at least three qualified vendors or by selection from a list of prequalified vendors developed by a procedure approved in advance, in writing, by the Commissioner of Administration. The Commissioner of Administration can waive these selection procedures if there is only one vendor qualified to perform the work in view of either the uniquely specialized nature of the service or the monopolistic nature of the market, or if the service is necessary to respond to an emergency involving an immediate threat to the health or safety of persons or to the protection of property.

Certain contracts and activities are *prohibited* under Administrative Bulletin 82-1:

- An agency cannot contract with an individual for temporary clerical services except to record and transcribe hearings. Agencies are allowed, however, to contract with an organization for emergency clerical assistance.
- Contractors cannot supervise employees of the Commonwealth, directly or indirectly.

Individual contractors are generally prohibited from:

- participating in the group insurance plans for state employees;
- being compensated for vacation, sick time, holidays and any time the contractor fails to provide the services;
- being included in the retirement system for state employees.

Since virtually all state managers will have occasion to prepare or review contracts for personal service, managers should read Administrative Bulletin 82-1 in its entirety.

## Personal Service Contracts

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### **Purchase of Social and Rehabilitative Services**

801 CMR 25.00 and Administrative Bulletin 78-12 set forth the rules and regulations governing the purchase of services covered by object codes 393 and 394 of subsidiary code 07 (social and rehabilitative service contracts with private organizations). These regulations do not apply to personal services, individuals, or other contracts covered by the 03 subsidiary code.

The regulations address the areas of procurement procedures and contract administration and authorization. Some of the key provisions are as follows:

#### *Initiation of Procurement*

- Contracting agency must certify for the appropriate Cabinet Secretary that funds are available.

#### *Competitive Procurement*

- Competitive procurement procedures must be employed.
- Requests for proposals must be prepared and distributed widely.
- Written provider proposals must be reviewed and evaluated.
- All proposals may be rejected.

#### *Competitive Proposal Negotiation*

- Competitive negotiation is authorized among *qualified* proposals when insufficient funds are available or the contract agency believes negotiation to be in the best interest of the Commonwealth.

#### *Non-Competitive Procedure*

- Sole source acquisition is authorized when services are specialized and provider possesses unique capabilities, restrictions have been attached to available funds, or when a market monopoly exists.
- Sole source awards are authorized through a written justification statement filed with the Secretariat and Comptroller.

#### *Contract Negotiation*

- Failure to negotiate satisfactory contract with the selected provider permits the agency to choose the next qualified provider or reinstitute the procurement process.

#### *AF-7 Form*

- An authorization form (AF-7) containing the specifics of the proposed contract must be filed with the Comptroller and approved by the Secretariat.

#### *Legal Review*

- A "legal checklist" completed by the agency counsel must be filed with the contract at the Comptroller's Division.

## Personal Service Contracts

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### *Prior Approval*

- New services may not be rendered prior to Secretariat approval of the Form AF-7.

### *Contract Modification*

- Subsequent contract modifications involving change of provider, change of service, increase in maximum obligation, or extension of expiration date must be approved by the Secretary.

### *AF-7A Form*

- Subsequent modifications of Form AF-7 are done by filing a Form AF-7A with the Comptroller, subject to Secretariat approval.
- Effective date for modification is the filing date of the original Form AF-7, except in cases of new contracts, increase in excess of 125% of the existing contract, or a change in the rate.

### *Contract Renewals*

- Contracts may be renewed for two subsequent years.

### *Contract Increases*

- If the amount of a contract is increased to more than either 125% of the original amount or \$40,000, then the contract is subject to competitive bidding requirements.

### *Waivers*

- Any provision may be waived by the Executive Office for Administration and Finance.

### *Contract Officer*

- The purchasing agency must appoint a contract officer to ensure compliance with the terms of the contract.

### **Additional Information**

Any questions regarding these regulations should be referred to your agency or Secretariat contract officer.

If, however, you have questions or need assistance concerning any contracting areas, you can contact the General Counsel, Executive Office for Administration and Finance, State House, Room 373, Boston, Massachusetts 02133; telephone (617) 727-2070.

### **Federal Grants**

Massachusetts General Laws, Chapter 29, Section 6B, requires the Secretary of Administration to promulgate rules for the administration of federal grants. Administrative Bulletin 81-4 sets forth the rules concerning applications for federal grants. Any questions regarding these procedures should be directed to the Budget Bureau, State House, Room 272, Boston, MA 02133; telephone (617) 727-2087.





# B. Employee Benefits

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Health		
Unemployment		
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# Insurance

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The Commonwealth provides a program of group life and health insurance coverage for state employees and their dependents. An employee may elect to carry only life insurance, but must carry Basic Life Insurance in order to be eligible for optional life or health insurance.

Employees are eligible for insurance coverage on the first day of the month following 60 days of employment. Deductions begin one month before the effective date of coverage. An employee who does not want any insurance must sign a "Waiver of Insurance Coverage" Form at least 30 days before the insurance would have become effective. Employees who waive coverage must wait a full year before they are again eligible. Employees who want only life insurance must sign a "Waiver of Insurance Coverage" Form and wait a year before becoming eligible for health insurance. Transfers of health insurance coverage from one plan to another may be made effective July 1 of each year. Forms for such transfers must be filed during the annual open enrollment period from early April through early June.

## Life insurance

Basic Life Insurance provides \$2,000 life insurance coverage. The Commonwealth contributes 90% of the premium for this basic coverage. Additional coverage, for which the employee pays the full cost, is available in thousand dollar increments. The maximum allowable amount of such additional life insurance is the employee's annual salary, minus \$1,000.

## Insurance

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### Health Insurance

Two options in health insurance plans are available to the Commonwealth employee. They are:

- *The State Health Insurance Plan*, which is currently underwritten by Blue Cross and Blue Shield of Massachusetts, and which provides coverage for inpatient and outpatient services. The State contribution, which is determined by collective bargaining, is currently 90%. Optional coverage, for which the employee pays the full cost, includes Catastrophic Illness Coverage and Medically Necessary Abortion Coverage. The State Optional Medicare Extension Plan is offered to retirees and employees age 70 or over eligible for Medicare coverage, with a State contribution of 90%. Retirees may also buy Catastrophic Illness Coverage, for which they pay the full cost.
- *Health Maintenance Organizations*, which emphasize preventive health care, are a less expensive alternative to traditional insurance coverage. HMOs provide or arrange for doctors care and hospitalization for their members. HMOs help control cost, for example, by delivering care in less expensive settings, where medically appropriate. The Commonwealth currently offers 15 HMOs to its employees. For each individual or family contract, the State pays the HMO the same dollar amount as it does to the other health insurance plan. Because the full HMO premium is often less than the State's 90% contribution to the other health insurance plan, many employees pay nothing for their health care. There are three types of health maintenance organizations:

**1. Staff model** HMOs maintain their own facilities and maintain salaried medical staff to treat their members. To be covered, a member must receive services at a Plan facility or by referral of a Plan physician. Staff model plans currently available are:

- Medical East Community Health Plan
- Harvard Community Health Plan
- Medical West Community Health Plan
- Rhode Island Group Health Association

**2. Medical Groups** are HMOs which contract with a medical group, partnership, or corporation comprised of health professionals for the delivery of health care to its members. The choice of doctors in a Medical Group Plan is generally greater than that in a Staff Model. Medical Group Plans currently available are:

- Fallon Community Health Plan
- Lahey Clinic Medical Center
- Healthway Medical Plan
- Multi-Group Health Plan
- Valley Health Plan, Inc.

**3. Independent Practice Associations** are individual practice plans. The HMO is an administrative office operation which contracts with physicians to treat members under its plan. The choice of doctors in an Independent Practice Association is generally greater than in a Staff or Medical Group Model Plan. Independent Practice Association Plans currently available are:

- Bay State Health Care Foundation
- Family Health Plan
- Central Massachusetts Health Care, Inc.
- West Suburban Health Care Plan
- Pilgrim Health Care, Inc.
- Tufts Associate Health Plan

### Additional Health Insurance Information

Literature describing each Plan and the geographic areas covered may be obtained from your agency's personnel office or from the Group Insurance Commission, Charles F. Hurley Building, 19 Staniford Street, Boston, MA 02114, telephone (617) 727-2310.

### **Unemployment Insurance**

Unemployment Insurance provides benefits to workers who have become temporarily unemployed through no fault of their own. Most Massachusetts state employees are covered under the Unemployment Insurance Law.

To be entitled to benefits, a claimant must:

- have lost a job through no fault of his/her own (i.e., through layoff due to lack of funds or a reduction in force);
- be able to work full-time;
- be actively seeking a full-time job; and
- have been paid wages in the 52 week period prior to filing the claim which are both 30 times his/her weekly benefit rate and total at least \$1,200.

Whenever a claim is filed, the Division of Employment Security (DES) requests from those employer(s) for whom the claimant worked in the 52 weeks prior to filing the claim the amount of wages paid to the claimant and the reason the claimant is no longer employed. Provided the claimant meets the eligibility requirements stated above, his/her benefits will be determined according to the wages paid him or her in that 52 week period. Job insurance claimants receive approximately half of their average weekly wage up to the current maximum of \$185. The duration of benefits is a maximum of 30 weeks in Massachusetts. During periods of high unemployment, there may be a period of extended benefits.

Any pension, retirement pay, or annuity which was contributed to or maintained by the employer may be deductible from unemployment benefits.

### **Additional Unemployment Insurance Information**

For further information regarding Unemployment Insurance, refer to:

- Massachusetts General Laws Chapter 151A, as amended by Chapter 720, Acts of 1977.
- Administration and Finance Informational Circular dated August 29, 1978.



## Insurance

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### **Worker's Compensation (Industrial Accidents)**

All employees of the Commonwealth, except those in certain public safety positions, are entitled to benefits for both job related injuries requiring medical treatment or causing incapacity for six or more days and for payment to dependents in case of accidental death.

Each agency has one or more designated Worker's Compensation Agents who are required to file an "Employer's First Report of Injury" with the Public Employees Retirement Administration within 48 hours of the injury, and a "Notice of Injury" with the State Board of Retirement within 90 days.

Worker's Compensation covers:

- payments for medical, surgical, and hospital treatment.
- payments for temporary total and permanent total disability, based on a percentage of the employee's salary at the time of injury, with minimum and maximum amounts established by the law, plus additional compensation to dependents up to a maximum established by law.
- additional compensation for loss of hands, feet, eyes, hearing, bodily functions, disfigurement, and other specified injuries.
- compensation to dependents in the case of death.

No compensation is allowed for injuries resulting from serious and willful misconduct on the part of the injured employee. This regulation does not, however, bar payment to the beneficiary if the employee dies as a result of the injury.

Permanently incapacitated employees who are eligible for retirement under Chapter 32 of the Massachusetts General Laws may elect either worker's compensation or a retirement pension.

### **Additional Worker's Compensation Information**

For additional information on Worker's Compensation, consult the following sources:

- Massachusetts General Laws, Chapter 152
- The Worker's Compensation Agent of the agency in which the injured employee works
- Public Employees Retirement Administration; telephone (617) 727-9380.

# Vacation, Sick, and Other Leave Benefits

## Vacation Leave

The vacation year for employees of the Commonwealth is July 1 to June 30, inclusive. Based on an employee's length of service as of June 30, vacation leave is credited as follows:

- For *less than one year's service*, one day (up to a maximum of ten days) is credited for each month of service. Employees beginning their employment with the Commonwealth after the first day of a calendar month start earning credit on the first day of the following month.
- For *one to less than four and one-half years of service*, two weeks (10 days) are credited.
- For *four and one-half to less than nine and one-half years of service*, three weeks (15 days) are credited.
- For *nine and one-half to less than 19½ years of service*, four weeks (20 days) are credited.
- For *19½ or more years of service*, five weeks (25 days) are credited per year.

If an individual employee leaves the employ of the Commonwealth and resumes employment within a period of less than three years, s/he will be credited with prior service for vacation status purposes. Under certain conditions, such as illness or dismissal caused by no fault or delinquency of the employee, prior service may be credited after a break of three years or longer.

Employees on leave without pay or absent without pay 15 days or more in a vacation year lose that year for vacation status purposes and have vacation credits deducted proportionally. This regulation varies with some collective bargaining agreements, i.e. some agreements exempt absences from loss of vacation status for certain reasons. Leave with pay or industrial accident leave is creditable service for vacation status and vacation credits. (See Example 1, page B7).

Employees may carry over only one year's vacation credits, i.e., vacation not used in the vacation year in which it becomes available must be used by the end of the following vacation year. (See Example 2, page B7).

Upon termination of employment by dismissal, retirement, or entrance into defense forces, through no fault or delinquency of the employee, the employee is paid for the unused portion credited the immediately preceding June 30 plus a prorated portion of what he/she was earning during the year in which his/her termination occurred. In the event of an employee's death, the same formula is used to determine payment to his/her beneficiary. Some collective bargaining agreements substitute "lay off" for "dismissed through no fault or delinquency of the employee" and include payment for all unused vacation leave. Upon termination for any other reason, payment will be made only for the unused portion credited on the immediately preceding June 30. (See Example 3, page B8).



## Leave Benefits

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### Sick Leave

Sick leave is credited at the rate of one and one-quarter days for each full calendar month of employment. Time on leave with pay or industrial accident leave is creditable for sick leave accrual; no credit or accrual is given for any month in which an employee is absent without pay for more than one day.

Sick leave is granted at the discretion of the appointing authority for the following reasons:

- Employee is incapacitated by personal illness or injury.
- For illness in the employee's immediate family, up to ten days per year (seven days per year in some collective bargaining agreements).

When sick leave credits are exhausted, the appointing authority may allow conversion of unused vacation credits to sick leave credits (in some collective bargaining agreements, this action may be taken only at the request of the employee).

The appointing authority may require the submission of satisfactory medical evidence to support an employee's sick leave claim (see Administrative Bulletin 83-6 and Office of Employee Relations Memorandum 84-2, which deal with the problem of sick leave abuse).

Employees may accumulate accrued sick leave credits without limit. If an individual leaves the employ of the Commonwealth and resumes employment within a period of less than three years, any unused sick leave accrued prior to leaving will be credited to him/her upon reemployment. Under certain circumstances, such as illness or dismissal caused by no fault or delinquency of the employee, unused sick leave may be credited after a break of three years or longer. Upon termination of employment, no payment is made for unused sick leave, except in the case of termination due to retirement. In the case of termination due to retirement, payment is made for 20 percent of any unused sick leave. This provision is not in all collective bargaining agreements; employees should refer to the appropriate agreement.

### Personal Leave

Employees who are on the payroll of the Commonwealth on July 1 are credited with three personal days. Except in some collective bargaining units with no provision for employees hired after July 1, those hired July 2 through September 30 are also entitled to three personal days; those hired October 1 through December 31, two days; and those hired January 1 through March 31, one day. Personal days may not be accrued or carried over; they must be used by June 30, or be forfeited.

### Military Leave

Employees of the Commonwealth are entitled to leave with pay for service in the Armed Forces of the Commonwealth (the National Guard), or during their annual tour of duty not exceeding 17 days in a reserve unit of the Armed Forces of the United States.

### Court Leave (Civic Duty Leave)

Employees of the Commonwealth are entitled to leave with pay when called for jury duty or when summoned as witnesses on behalf of any city, town, county, state, or the federal government. Any witness fees are paid to the Commonwealth; jury fees, up to the amount of regular compensation, are turned over to the appointing authority. Employees retain court reimbursement for expenses. No paid court leave is allowed for employees engaged in personal litigation.

### Bereavement Leave

Employees of the Commonwealth are allowed up to four calendar days with pay in the case of death of one of the following: spouse, child, parent, brother, sister, grandparent, grandchild, parent of spouse, or a person living in the household.



## Leave Benefits

### Maternity Leave

Female employees who have completed the probationary period or, if there is no probationary period, three months of service, may receive up to eight weeks leave without pay for the purpose of giving birth. Any accumulated vacation, personal, or sick leave to which female employees are entitled may be applied to maternity leave in accordance with the rules governing such leave.

Maternity leave does not interrupt the accrual of benefits, seniority, or length of service credit. Some collective bargaining agreements also include unpaid parental or adoptive leave.

### Other Leave

Employees of the Commonwealth are also entitled to leave with pay for the following:

- preventive inoculation against infectious diseases (such as hepatitis) required as a result of their employment;
- quarantine due to exposure to contagious disease while working;
- Red Cross blood donations;
- Civil Service examinations;
- industrial accident hearings;
- delegates attending veterans' conventions;
- voting leave of two hours, providing that the hours the polls are open conflict with the employees' regular working hours;
- veterans participating in services honoring veteran dead;
- Civil Service Commission hearings.

Employees should once again refer to the applicable collective bargaining agreement; some do not include paid leaves of absence for the reasons stated above, and agreements differ as to coverage of paid leave for union business and grievances.

### Examples:

#### Vacation, Sick, and Other Leave Benefits

##### 1) Loss of Vacation Credits

Case A) An employee with eight and one-half years of creditable service for vacation status purposes as of June 30, 1982 is absent without pay due to a serious illness requiring hospitalization for 43½ days during the vacation year ending June 30, 1983. Since s/he was absent without pay for 15 or more days during that year (July 1, 1982 through June 30, 1983), it is not a year of creditable service for vacation status purposes. S/he therefore continues to have a three week vacation status, and the vacation allowance for that year must be reduced from three weeks (15 days) to 12½ days as follows:

$$\frac{43.5}{261} \times 15 = 2.5$$

(days off the payroll) x (days vacation status) (days lost)  
(number of work days during that vacation year)

Case B) If this employee were covered by a collective bargaining agreement which exempts certain absences without pay (including serious illness requiring hospitalization) from the loss of vacation status, s/he would complete nine and one-half years of creditable service and be entitled to a four week vacation status as of June 30, 1983. The vacation allowance for that year must, however, be reduced from four weeks (20 days) to 16 2/3 days as follows:

$$\frac{43.5}{261} \times 20 = 3.333$$

(days off the payroll) x (days vacation status) (days lost)  
(number of work days during that vacation year)

## Leave Benefits

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**2) Vacation Credit Carryover** An employee had earned a vacation allowance of three weeks on July 1, 1982 for the vacation year ending June 30, 1982; as of June 30, 1983, s/he had not used any of those days. On July 1, 1983, s/he was given an additional vacation allowance of three weeks for the year ending June 30, 1983. The three weeks given on July 1, 1982 must be used prior to June 30, 1984.

**3) Payment for Unused Vacation**

**Case A)** If the employee described in example 2 was terminated because of a layoff (or retirement, entrance into the Armed Forces, or death) on December 31, 1983, payment for unused vacation leave would include the following:

- the three weeks credited on July 1, 1982;
- the three weeks credited on July 1, 1983; and
- the one and one-half weeks s/he was in the process of earning from July 1, 1983 to December 31, 1983.

**Case B)** If this employee is covered by the "Red Book" or an agreement not providing payment for all unused vacation leave, payments would not include the three weeks credited on July 1, 1982.

### Administrative Leave and Skeleton Work Force

Since the advent of paid personal leave as a benefit, there is virtually no occasion for the granting of administrative leave (time off from work with pay without charges to an employee's accrued paid leave). The only exception to the foregoing is an authorized skeleton workforce due to extreme adverse weather conditions.

Because weather conditions vary considerably throughout the Commonwealth, the *authorization of a skeleton workforce* outside the Government Center area in Boston is left to the discretion of each appointing authority; the Commissioner of Administration covers the Government Center area. For additional information and procedures, see Administrative Bulletin 77-12.

### Separation for Active Military Service

Any person leaving the employment of the Commonwealth for the express purpose of serving in the Armed Forces of the United States has reemployment rights under both federal and state statutes. These rights apply equally to men and women and to persons who are drafted as well as those who volunteer for military duty. Although those persons first entering military service after May 7, 1975, are not "veterans" within the meaning of state statute, they have the foregoing rights as well as various other rights. Persons entering the Armed Forces should contact their personnel office for information and guidance.

### Additional Information

For additional information regarding separation for active military service, employees in positions covered by collective bargaining should refer to the appropriate collective bargaining agreement. Managers and others exempt from collective bargaining should refer to the appropriate sections of the "Red Book". Other sources of information are:

- Chapter 708 of the Acts of 1941, as amended
- Chapter 43 of Part III of Title 38, US Code
- Massachusetts General Laws, Chapter 31, Section 33



# Paid Holidays

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The following holidays are observed by the Commonwealth of Massachusetts:

- New Year's Day (January 1)
- Martin Luther King Day (January 15)
- Washington's Birthday (third Monday in February)
- Patriot's Day (third Monday in April)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (first Monday in September)
- Columbus Day (second Monday in October)
- Veterans' Day (November 11)
- Thanksgiving Day (fourth Thursday in November)
- Christmas Day (December 25)

In addition, the following holidays are observed in Suffolk County;

- Evacuation Day (March 17)
- Bunker Hill Day (June 17)

Holidays falling on a Sunday are observed the following day. All state offices must remain open the Friday before a holiday falling on Saturday. When possible, employees whose regular day off is Saturday are given the preceding Friday off with pay and those who work Friday receive another day off with pay or an additional day's pay. Employees required to work on a holiday, or those whose regular day off occurs on a holiday, receive either another day off with pay or an additional day's pay.

All state offices outside of Suffolk County must remain open on Suffolk County holidays; employees outside of Suffolk County who work on either of those holidays are given another day off with pay or an additional day's pay.

Employees who are on leave without pay or absent without pay for any portion of their scheduled workday immediately preceding or following a holiday *do not* receive pay for the holiday. Employees who are granted sick leave for a holiday on which they are scheduled to work do not receive an additional day off with pay nor an additional day's pay for the holiday.

## Additional Information

For additional information regarding paid holidays, consult the following:

- Massachusetts General Laws, Chapter 4, Section 7, 18th clause and Chapter 30, Section 24A
- "Red Book" Rules and Regulations
- Applicable collective bargaining agreements
- Administration and Finance Informational Circular dated February 10, 1984: Suffolk County Holidays falling on a Saturday





# Retirement

## Ordinary Retirement

State employees are not covered by Social Security. All eligible employees, however, receive automatic membership in the Contributory Retirement System. Permanent full-time employees are eligible immediately; full-time temporary, provisional, and seasonal employees after six months of continuous employment; and part-time employees (those working 50% or more of the hours of full-time employees' work year) after one full year of continuous employment. Intermittent employees (those working fewer than 50% of the hours of the normal full-time work year) and seasonal employees working fewer than seven months per year are ineligible unless already members before changing work status. Employees who must complete a waiting period before becoming eligible may, after becoming members, pay appropriate deductions into the system to receive credit for the waiting period.

Deductions of eight percent (seven percent for employees hired prior to January 1, 1984, and five percent for employees hired prior to January 1, 1975) are paid to the State Retirement System and become the annuity portion of the employee's retirement allowance. A state-funded pension makes up the difference between the annuity and the total retirement allowance.

Each employee is assigned to a retirement group (generally Group 1, except for employees in certain hazardous occupations). The retirement group assignment determines the maximum retirement age and the size of the retirement allowance due, based on age at retirement. Employees may retire after 20 years of service, or, if hired before January 1, 1978, any time after age 55. Employees hired after that date must work at least ten years, regardless of age, to be eligible for retirement.

The basic formula for calculation of an employee's retirement allowance is a percentage factor based on retirement group and age at retirement times the annual rate of compensation (determined by taking the average of the employee's three highest consecutive years' regular compensation) times the number of years of service. The maximum retirement allowance is 80 percent of the average annual rate of compensation. The percentage factor used is based on the following table:

Age Last Birthday at Date of Retirement			
Percent	Group 1	Group 2	Group 4
2.5	65 or over	60 or over	55 or over
2.4	64	59	54
2.3	63	58	53
2.2	62	57	52
2.1	61	56	51
2.0	60	55	50
1.9	59		49
1.8	58		48
1.7	57		47
1.6	56		46
1.5	55		45

### Example:

Age: 65  
Average annual compensation: \$20,000  
Years of service: 30 years, 6 months  
Retirement Group 1  
 $2.5\% \text{ of } \$20,000 \times 30.5 = \$15,250.00 =$   
annual retirement allowance

The employee selects the method of payment of the retirement allowance from four options:

- Option A: Provides the full retirement allowance in monthly payments. All payments cease upon the death of the retiree.
- Option B: Upon the death of the retiree, any unpaid balance of the annuity portion of the retirement allowance is refunded to the retiree's beneficiary. Monthly payments to the retiree which he/she is allowed are typically three to five percent less than with Option A. The exact amount depends upon the retiree's age at retirement and the amount of money paid into the system.

## Retirement

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- Option C: Upon the death of the retiree, the surviving named beneficiary is paid two-thirds of the retiree's monthly retirement allowance for life. Payments to the retiree under this option are somewhat lower than under Option B, depending upon the age of the retiree and the age of the named beneficiary.
- Option D: In addition, an active employee may exercise his/her option to nominate a beneficiary other than a spouse to receive two-thirds of the Option C allowance if the employee dies prior to retirement.

Prospective retirees are urged to consult with the State Board of Retirement when selecting an option.

Employees under the age of 55 who resign from the service of the Commonwealth after at least ten years of service may withdraw accumulated funds that have been deducted from their salaries or leave them on deposit and apply for a retirement allowance upon reaching retirement age. No interest will be refunded to members with less than five years of creditable service who withdraw accumulated deductions.

Employees with over five years and less than ten years of service will receive fifty per cent of the accrued interest; employees with ten years of service will receive one hundred per cent. Employees aged 55 or over (with at least ten years of service if hired on or after January 1, 1978) who resign may receive a retirement allowance, but may not withdraw accumulated deductions.

Employees who receive a refund of their accumulated retirement deductions and subsequently return to the service of the Commonwealth do not have to repay or make up those withdrawn funds. Whether or not a repayment is made, however, those members must contribute eight percent of their salaries as a retirement deduction, even if they were formerly contributing five or seven percent.

### Disability Retirement

Ordinary disability retirement benefits are available to permanently incapacitated non-veterans under age 55 with at least 15 years of service. After age 55, incapacitated non-veterans retire under the regular retirement provisions. Permanently incapacitated veterans with at least ten years of service are eligible for ordinary disability retirement benefits at any age.

Accidental disability retirement benefits are available to employees who are totally and permanently disabled as a result of on-the-job injuries. Employees cannot file for accidental disability retirement within two years of their maximum retirement age unless the accident occurred within three years of that age. Accidental death benefits are available in the event of the death of an employee or retiree resulting from on-the-job injuries. Ordinary disability, accidental disability, and accidental death allowance payments are reduced by the amount of any worker's compensation payments.

### Additional Information

For further information regarding retirement, refer to Chapter 32 of the Massachusetts General Laws. Information and literature may be obtained from the State Board of Retirement, One Ashburton Place, Boston, MA 02108; telephone (617) 727-2951.

Note: The Commonwealth provides a counseling program for those employees planning on retiring within five years. See "Pre-Retirement Counseling" (page D7).



# C. Purchasing and Procurement

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General .....	C 1
Data Processing Equipment Systems and Services .....	C 3



# General

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Under the laws of the Commonwealth, the State Purchasing Agent's Division (PAD) is responsible for purchases by state agencies of all materials, equipment, supplies, machinery, printing or other property, except for those purchased for legislative or military purposes. This responsibility includes the purchase of materials and supplies needed by agencies for construction and repair work to be performed by agency personnel.

Agency managers must comply with several general laws and regulations which apply to purchasing. These laws and implementing regulations apply to printing requirements, products manufactured or sold by the Department of Correction or the Commission for the Blind, blanket contracts and the provision of estimated procurements to the Purchasing Agent's Division.

Agencies are given the authority to make purchases without the approval of the Purchasing Agent under three conditions:

- Purchases made under a blanket contract issued by the Purchasing Agent;
- Emergency purchases where life, limb, or property is in jeopardy; and
- Purchases valued at under \$500.

Many items purchased are required throughout the year by a number of state agencies. The Purchasing Agent's Division obtains the best estimate of total requirements and then enters into contracts with suppliers to furnish certain of these items at fixed prices and quality for a specified period of time. This type of contract is referred to as a *blanket contract*. In order to receive optimum price benefits from blanket contracts, the Collective Purchasing Office of the PAD requires an estimate of each agency's needs for a particular fiscal year by the prior March 31. An appropriate time for agency managers to develop their estimates would be during the period leading to the administrative approval of the budget for the upcoming fiscal year. Upon execution, the Collective Purchasing Office sends each agency a list of current blanket contracts and the items covered by each contract.

State agencies also use certain office supplies and standard forms for personnel and accounting actions as well as other purposes. These office supplies and standard forms can be requisitioned from the Central Supply Division, which is located in the State House. The costs of requisitioned supplies are charged to the receiving agency and credited to the revolving fund that supports the Central Supply Division.

Agency printing and graphic arts requirements costing in excess of \$300, including documents regularly printed, mimeographed or duplicated in any other way, whether for outside or inter-departmental circulation, must be approved by the State Purchasing Agent. The Printing Review Board can be contacted for advice and assistance on printing matters; telephone (617) 727-2906.

Agencies are required by law to procure certain items produced by the *Department of Correction's* Correctional Industries Program. Catalogues and information on this program can be obtained from the Industries Division, Department of Correction, Leverett Saltonstall Building, 100 Cambridge St., Boston, MA 02202; telephone (617) 727-3314.

The law also requires that agencies purchase certain items produced by the *Commission for the Blind*. Information and catalogues can be obtained from the Massachusetts Industries for the Blind, 72 Second St., Cambridge, MA 02141; telephone (617) 727-9840.

Agency managers should ensure that specifications for commodities and equipment which are requisitioned establish quality requirements. Overstatement of specifications, however, could result in unnecessarily restricting competition or increasing prices; understatement could result in procurement of items of low grade or quality.



## General

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Agencies should, when practicable, specify performance needs in terms of fit, shape, function and quality rather in terms of a particular vendor's product. The agency managers are also urged to review frequent purchases of items under \$500 in value. Consolidation of requirements on one purchase request could present an opportunity to save money. Moreover, the PAD also maintains a list of state surplus property which should be reviewed to prevent unnecessary purchases.

Delivered items should be inspected immediately; deliveries which do not satisfy the specification requirements of the order or contract should be rejected immediately, with notice given to the vendor stating the reason for rejection. The Purchasing Agent Division buyer should be notified by telephone and by copy of the confirming letter of the unsatisfactory delivery. Timely attention to the inspection and acceptance of deliveries is absolutely necessary to support a high quality purchasing program.

### **Purchase Requisitions**

When submitting purchase requisitions to the Purchasing Agent's Division, agency managers should keep in mind that the minimum time frame between the PAD's receipt of a requisition and the award of a contract is five to six weeks. At the beginning and end of each fiscal year, when the number of requisitions received by the PAD increases greatly, a commensurate increase in the turn-around time can be expected. Whenever possible, agencies should schedule requisitions to the PAD during lighter workload periods.

### **Processing Invoices**

Agency managers are also urged to process invoices in a timely fashion. Slow payment by the state is probably the most frequent complaint of vendors. Some have refused to bid on state contracts because of their experiences with slow payment. Prompt payment to vendors depends upon the individual agencies' timely processing of invoices. Prompt payment could result, over time, in lower prices for items purchased by the Commonwealth.

### **Direct Purchases**

Agency personnel are responsible for approximately \$40 million in purchases made directly from vendors rather than through the PAD. The personnel who buy for agencies can obtain reasonable prices by "shopping" for value and discounts and by comparing the prices of several vendors before making a particular purchase.

In summary, agency managers are responsible for providing leadership and direction to subordinate personnel involved in the purchasing process. Ensuring the most effective expenditure of public funds can be accomplished by a program of estimating agency needs, insisting on competition for awards, using collective contracts, combining requirements for volume purchasing, substituting surplus property for new purchases whenever practical, and continuously monitoring these processes.

### **Additional Information**

Information and literature may be obtained from the Purchasing Agent's Division, One Ashburton Place, Boston, MA 02108; telephone (617) 727-2882.

# Data Processing Equipment, Systems, and Services

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Chapter 29, section 27B of the General Laws mandates that the Commissioner of Administration establish rules and regulations governing the lease or purchase of data processing equipment or systems. Administrative Bulletin 82-5 establishes procurement policies and procedures for electronic data processing (EDP) equipment, software, systems and services. Agency heads should carefully read Administrative Bulletin 82-5 if anticipating the purchase/lease of EDP equipment, software and services. The synopsis below provides only a general overview.

### Scope and Application

No agency of the Executive Department of the government of the Commonwealth, excluding public institutions of higher learning and the departments of the Attorney General, State Secretary, State Auditor and State Treasurer, can make any expenditure of state or federal funds for the procurement of automatic data processing hardware (including word processing equipment), software, systems or services except in compliance with Administration and Finance regulations. The Bureau for Systems Policy and Planning (BSPP) may, from time to time, publish guidelines for the purpose of assisting agencies in complying.

### Planning Requirements

An agency that uses or intends to use EDP hardware, software, systems or services files a current agency EDP plan and all revisions with the respective Secretariat, or, if not under a Secretariat, with BSPP. BSPP should have at all times a current Commonwealth EDP plan for the approval of the Commissioner of Administration.

### Procurement Procedures

For each procurement, an agency designates one person within the agency as the “procurement coordinator”. That person coordinates the agency interactions with its Secretariat and with BSPP, sending a notice of proposed procurement to BSPP.

A BSPP analyst meets with the procurement coordinator in order to review the notice and offer advice concerning the nature and scope of the procurement and its consistency with the agency EDP plan as well as the intended method of procurement. The BSPP analyst also assists in the preparation of request forms (AF-29) with supporting documentation, and indicates the nature and scope of the technical and business specifications the agency must prepare for delivery to the Selection Board. The Selection Board consists of one or more full-time state employees appointed by the Commissioner of Administration, one of whom must be a nominee of the requesting agency.

Each procurement request must go through a series of approvals; first, by the applicable Secretariat, contingent upon sufficient funding; second, by BSPP, and third, by the Commissioner of Administration. If a request is disapproved, the agency may explore alternatives, withdraw the request, or appeal to the Commissioner of Administration. Note that approved requests for equipment are submitted by Administration and Finance to the House and Senate Committees on Ways and Means to be reviewed within 30 days.

Once the request for equipment is approved, the Selection Board prepares solicitation documents. Contracts to supply EDP resources are made only with vendors selected by competitive proposals unless BSPP determines that such a method would be impractical or disadvantageous. Moreover, the Commissioner of Administration must approve the use of an alternative method of selection.



## Data Processing

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The Selection Board usually prepares a "Request for Proposal" (RFP) and related evaluation criteria which are submitted to BSPP for approval before being transmitted to the Purchasing Agent. If the Purchasing Agent finds that the RFP or related evaluation criteria do not violate applicable rules or procedures of the Purchasing Agent's Division, s/he then advertises and issues the RFP according to standard purchasing procedures.

The Selection Board evaluates responses and delivers a written report of its findings and recommendations to BSPP and sends a copy to the Purchasing Agent. Unresolved differences between the Selection Board and BSPP or the Purchasing Agent are referred to the Commissioner of Administration for disposition.

### **Contract Administration**

A contracting team negotiates an agreement with the selected vendor. The contracting team consists of one or more qualified full-time employees, one of whom must be a nominee of the requesting agency and an appointee of the Commissioner of Administration. The contracting team submits the negotiated contract to BSPP for review as to completeness, conformance to the RFP, and general suitability for approval by the Commissioner of Administration. BSPP then arranges for execution of the contract and files one signed original with the State Comptroller, where the date of filing is noted. In some cases, an encumbered purchase order is an adequate form of contract.

Payment to the contractor cannot be made until the AF-29 is date-stamped by, and the contract filed with, the Comptroller. Each invoice relating to the procurement of data processing equipment, systems or services submitted to the Comptroller's Division for processing must identify the AF-29 on file with the Comptroller's Division.

### **Additional Information**

Information and literature may be obtained from the Bureau for Systems Policy and Planning, One Ashburton Place, Boston, MA 02018; telephone (617) 727-1128.



# D. Development of Human Resources

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Quality of Work Life .....	D 1
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# Quality of Work Life

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Since 1983, the Commonwealth has included in collective bargaining agreements a commitment to improve the "Quality of life" within the workplace. The Governor has instructed the Office of Employee Relations to work with the Department of Personnel Administration to explore and implement strategies in order to: improve communication between employees and managers; increase individual interest and motivation; increase the effectiveness and efficiency of state services; and foster an environment for labor/management cooperation. Among the variety of possible initiatives to accomplish these goals is the concept of Quality of Work Life (QWL).

QWL is a style of management which recognizes that all employees, at all levels, are an organization's most vital resource. This is especially true in state government, where our major product is service. QWL acknowledges that workers have knowledge and skills which are often untapped by management. Managers must often make decisions based on inadequate information. Those decisions can be enhanced by bringing into the solution process those persons most familiar with the problem on a day-to-day basis.

QWL is also a process. It is a structural plan for implementing the new management style for maximum utilization of human resources. The process promotes effective management of workplace changes based on increased employee input and participation in the problem-solving and decision-making processes in the employees' immediate work areas. Lines of communication among managers, supervisors and employees are developed through training and experience. Employees experience greater feelings of self-worth and well-being as well as greater responsibility and interest in their work. Managers have increased resources for problem solving and the overall performance and quality of services improve. The most direct result of increased employee involvement is better services to the people of the Commonwealth.

A commitment by managers to support and participate in the activities is essential to the success of any QWL process. Equally important is full participation by the unions and union leadership. Without joint commitment and effort, the QWL process cannot succeed.



# Massachusetts Employee Assistance Program

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The Massachusetts Employee Assistance Program (MEAP) is designed to assist state employees whose work performance is being impaired by alcohol, drugs, mental illness, family or other problems. The program has several components, including:

- confidential interviewing and problem analysis;
- referral of individuals to appropriate community treatment sources;
- liaison with state agencies and employee unions;
- training of supervisors and union stewards; and
- an ongoing series of seminars on employee wellness.

The pilot program has been available to 4,000 state employees working in 41 state agencies within the Government Center area. In 1983, the fourth year of the program, coverage was expanded to 6,500 employees and their families with an additional program expansion scheduled for 1984 that will provide statewide coverage for many more employees. A hotline is presently available for all employees of the Commonwealth regardless of their work site.

## **Additional Information**

For additional information and literature, contact Department of Personnel Administration, Employee Development Bureau, One Ashburton Place, Room 519, Boston, MA 02108; telephone (617) 727-2408 or Massachusetts Employee Assistance Program, 73 Tremont Street, Suite 706, Boston, MA 02108. The telephone number for MEAP within Metropolitan Boston is (617) 367-6960; outside of Metropolitan Boston, call toll-free (800) 842-2248.

## Training and Development

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**Tier IV, "Executive Development Program"**, provides a residential training experience for key decision makers in state government. The program allows for contact with legislative, community, media and other leaders to discuss major policy issues; it is conducted over five consecutive days and relies heavily on case work. Participants in Tier IV include cabinet secretaries, undersecretaries, assistant secretaries, agency heads and deputies who have primary responsibility for policy development and the expenditure of resources. It is conducted by the Kennedy School of Government at Harvard University.

Tier IV course content is:

- Policy Strategies
- Human Resources Management
- Financial Management and Control
- Operations Management

Panel discussions are:

- Media Relations
- Legislative Relations
- State Budget
- Purchasing
- Collective Bargaining

Follow-up one-day issues seminars will be announced.

### **Additional Information**

For additional information on Building Better Managers for Massachusetts, consult the brochure and course syllabus for each tier. A copy of these materials is on file at each agency and may be referenced by contacting the Agency Training Liaison Officer. Additional copies may be obtained from the Employee Development Bureau, One Ashburton Place, Room 519, Boston, MA 02108; telephone (617) 727-2408.

### **Pre-Retirement Counseling**

A 16 hour course of instruction is offered on an occasional basis for persons who are contemplating retirement within a period of five years. The purpose of the program is to generate thinking about and preparation for a lifestyle that does not include a job.

The course content includes:

- Values Clarification
- Life Planning
- Sources of Income
- Health and Safety
- Role Adjustment
- Use of Leisure Time
- Resources

# Training and Development

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The Employee Development Bureau in the Department of Personnel Administration offers a training and development program for supervisors and managers and a variety of other training opportunities for state employees. In addition, Commonwealth employees may qualify for tuition remission for courses taken at state-supported colleges and universities.

## **Building Better Managers for Massachusetts**

This is a four-tier training and development program for supervisors and managers.

**Tier I**, "Management Skills for Massachusetts Supervisors Program - Instructor Training", provides a continuous capacity at the agency level to train the 5,000 first and second level supervisors in state service. The program consists of five days of instructor training and five days of supervisory skills training conducted over a six week period. Participants include state agency training staff and personnel in job groups 18 through Manager IV. There is no cost to the individual agency for this program. It is administered by the staff of the Employee Development Bureau, augmented by consultants.

The following is the course content for Tier I:

### *Instructor Training*

- Adult Learning Theory
- Group Dynamics
- Presentation Skills
- Effective Use of Audio/Visuals
- Design and Delivery of Training Sessions
- Training Evaluation Procedures

### *Supervisory Skills Training*

- Leadership Styles
- Verbal Communication
- Motivation
- Productivity
- Conflict Management
- Performance Evaluation
- Team Building
- Conflict of Interest
- Delegation
- Equal Employment Opportunity/Affirmative Action
- Administration of Paid Sick Leave Benefits
- Stress Management
- Problem Solving and Decision Making



# E. A Word To The Wary

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# Conflict of Interest

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Chapter 268A of the Massachusetts General Laws sets forth the law concerning the conduct of public officials and employees. This law places restrictions, in some instances, on state, county, and municipal employees; special state employees; elected officials; immediate family (i.e., spouse, parents, children, and brothers and sisters) of all of the aforementioned; former county, state, and municipal employees; and members of state commissions and boards. It would be impossible to delineate every possible instance of conflict of interest in which a public official or employee might engage. A few illustrations, however, should prove helpful.

## **You Cannot:**

- give or receive anything of value with the intent of influencing any official act or responsibility, committing fraud, inducing one to commit or to fail to do any act in violation of his/her duty;
- attempt to influence the testimony under oath or affirmation of a witness upon a trial, before any court, any committee of either house, any agency, or commission;
- accept compensation of any sort from anyone (except the Commonwealth or a state agency) in relation to any particular matter in which the Commonwealth or a state agency is a party or has a direct and substantial interest;
- act as agent or attorney for anyone (except the Commonwealth or a state agency) for prosecuting any claim against the Commonwealth or a state agency;
- have a direct or indirect financial interest in a contract made by a state agency in which the Commonwealth or a state agency is an interested party (there are several exceptions which would allow you to have an interest in a state contract; it is recommended that you should review M.G.L., Chapter 268, Section 7).

## **You Can:**

- assist any person who is the subject of disciplinary or other personnel administration proceedings, so long as you are not compensated and your assistance is not inconsistent with the faithful performance of your official duties;
- testify under oath or make statements required to be made under penalty for perjury or contempt;
- act, with or without compensation, as an agent or attorney for members of your immediate family or for any person for whom you serve as guardian, executor, administrator trustee, or other personal fiduciary, provided that the state official responsible for your appointment approves and provided that the matter in which you are acting is not one in which you have participated in your official capacity or is a subject of your official responsibility.

Before you engage in any activity which may violate the Conflict of Interest Laws of the Commonwealth, you should request an opinion from the State Ethics Commission, One Ashburton Place, Room 1413, Boston, MA 02108; telephone (617) 727-0060.





# Indemnification

Chapter 258 of the Massachusetts General Laws sets forth the protection afforded to public employees when they are sued for actions undertaken in performance of their official duties and responsibilities.

A “public employee” is defined as, “elected or appointed officers or employees of any public employer, whether serving full or part-time, temporary or permanent, compensated or uncompensated, and officers or soldiers of the military forces of the Commonwealth.”

The definition of “public employer” is as follows: “The Commonwealth and any county, city, town or district, including any public health district or regional health board established pursuant to the provisions of section 27A or 27B of Chapter 111, and any department, office, commission, committee, council, board, division, bureau, institution, agency or authority thereof which exercises direction and control over the public employee, but not a private contractor with any such public employer, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority, or any other independent body politic and corporate. With respect to public employees of a school committee of a city or town, the public employer, for purposes of this chapter, shall be the said respective city or town.”

As a public employee, you and your estate are protected from liability up to \$100,000 for any injury or loss of property or personal injury or death caused by your negligent or wrongful act or omission while acting within the scope of your official duties. A public employee is, however, required to assist the public employer in the defense of such an action. If s/he fails to assist, and the failure prejudices the defense of the action, s/he may become jointly liable with the public employer and be required to pay all or a portion of the judgment. A public employee may not be defended for certain claims (see Chapter 258, section 10 (c)), since the immunity granted to a public employee does not cover such claims.

Certain claims, such as intentional torts or violations of the civil rights of any person under any federal or state law may be indemnified by a public employer in an amount not to exceed one million dollars. However, no indemnification is granted to a public employee who violates any person’s civil rights if the public employee has acted in a grossly negligent, willful, or malicious manner (see Chapter 258, section 9). With few exceptions, if a public employee is sued in his/her official capacity or for actions relating to his or her official duties, the public employee will be defended by the Attorney General’s office.

## Examples

Following are a few examples of actions under Chapter 258:

1) Public employee Jones works as a manager in a state agency and uses a state vehicle to travel to his home because he has a meeting the following morning away from his office. On his way home, Jones is involved in a traffic accident with private citizen Smith. Employee Jones’ vehicle is damaged in the amount of \$3,000; private citizen Smith’s vehicle is completely destroyed, and Smith requires medical attention. Private citizen Smith files a claim against employee Jones and the Commonwealth for \$10,000 for property damage and medical expenses. Public employee Jones would be defended under Chapter 258.

## Indemnification

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2) Public employee Able, a manager in a state agency, has never liked employee Baker because he felt she had not earned her manager position. Able began spreading untrue rumors about Baker. The rumors were reported in a local newspaper, and Baker sued Able for defamation of character. Able would *not* be defended under Chapter 258.

3) Public employee Win is the practical joker in his department. He often removes papers from the desks of other employees, pulls chairs when others are about to sit down, and, on occasion, will push another employee. Everyone knows that Win is a practical joker. One day, Win pulls a chair out from under employee Lose. Lose is severely injured by the fall caused by this "joke", and sues Win. Win might not be defended under Chapter 258.

4) Public employee Place, a Commissioner of a state agency, directs agency employees to repair a roadway which is adjacent to the home of private citizen Show. The noise of the work annoys Show. During the course of the work, agency employee Stakes strikes a gas main; gas is released, and Show's home, which is valued at \$150,000, explodes. Show sues Commissioner Place, employee Stakes, and the Commonwealth for \$200,000. Both Commissioner Place and employee Stakes would be defended under Chapter 258.

### Additional Information

Indemnification for certain public employees is covered in other chapters of the Massachusetts General Laws. Those employees and the appropriate chapters and sections are:

- Employees in the Executive Office of Human Services or the Department of Education: Chapter 12, Section 3E
- Certain employees of Registry of Motor Vehicles: Chapter 16, Section 11
- State and Metropolitan District Police: Chapter 258, Section 9A
- Capitol Police: Chapter 8, Section 4B



# Political Do's and Don'ts

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## General

The reference points for this discussion regarding political activity are Massachusetts General Laws, Chapter 55, Sections 13 through 17. For specific wording, see the relevant statutes at the end of this section. As an employee of the Commonwealth,

### You Can:

- be a member of political organizations or committees;
- contribute to committees for the election of a candidate; and
- refuse to contribute to any political fund or render any political service.

### You Cannot:

- directly or indirectly solicit or receive any gift or contribution for the political campaign purposes of any candidate for public office or any political committee;
- solicit or receive any payment or gift of money for any candidate or political committee in any state, county, or municipal building;
- deliver any contribution for the promotion of any political purpose to any officer, clerk or other person in the service of the Commonwealth, county, city or town, or to any councillor, member of the legislature, alderman, councilman, or commissioner;
- require any employee in public service to contribute to any political fund or render political service; or
- threaten any employee of the Commonwealth, county, city or town with discharge or other personnel action for not making a contribution for a political purpose.

All of the prohibited political activities, if violated, carry penalties of imprisonment for a certain time period, a fine, or both. Some political activities in which you may wish to engage may not appear to be violations of the law. However, you are encouraged to inquire before you commit yourself. Any inquiries concerning political activity should be referred to the Office of Campaign and Political Finance, One Ashburton Place, Room 1005, Boston, MA 02108; telephone (617) 727-8352.

## State Employees Paid by Federal Funds

A state employee whose principal employment involves an activity financed in whole or part by loans or grants made by a Federal Government agency is prohibited by Title 5, United States Code, Chapter 15 (Hatch Act) from engaging in certain political activity (political activity on behalf of a Democratic, Republican or other party candidate).

As a state employee in this category,

### You Can:

- engage in partisan political campaigning;
- be a candidate for a political party office;
- be a candidate in a nonpartisan election;
- attend political conventions and serve as a delegate or alternate; and
- perform volunteer work for a partisan candidate, campaign committee, or political party.

### You Cannot:

- become a candidate for elective office in a *partisan* primary, general or special election; or
- force another employee to contribute to a candidate.

In some instances, state law may also apply to certain political activities in which you cannot engage. Those prohibited activities were mentioned previously and should be reviewed.

## Additional Information

Any questions regarding political activity for persons paid by federal funds should be referred to the Office of Special Counsel, Merit System Protection Board, 1120 Vermont Avenue, N.W., Washington, DC 20419; telephone (202) 652-6005.



# Relevant Statutes Concerning Political Activity

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## **Massachusetts General Laws, Chapter 55, Sections 13 through 17**

**Section 13, *Public Officers and Employees Prohibited from Soliciting Contributions*** says in part:

“No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees . . .”

**Section 14, *Solicitation of Contributions in Public Buildings Prohibited*** says in part:

“No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen . . .”

**Section 15, *Public Officers and Employees Prohibited From Making Contributions*** says in part:

“No officer, clerk or other persons in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever. Nothing in this section shall be construed to prevent any person holding elective office from contributing to a candidate or to an elected or non-elected political committee.”

**Section 16, *Public Officers and Employees Not Required to Contribute or Render Political Service*** says in part:

“No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so.”

**Section 17, *Coercion of Public Officers or Employees Prohibited*** says in part:

“No officer or employee of the commonwealth or of any county, city or town shall discharge, promote or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving withholding or neglecting to make a contribution of money or other valuable thing for a political purpose.”



The American Revolution		The American Civil War	
1776	Declaration of Independence	1861	Secession of Southern States
1781	British Evacuation of Philadelphia	1862	Emancipation Proclamation
1787	Constitutional Convention	1863	Gettysburg Address
1791	Bill of Rights	1864	Lincoln's Second Inaugural Address
1800	Jefferson's Election	1865	End of the Civil War
1820	Missouri Compromise	1868	Reconstruction Act
1850	Compromise of 1850	1877	End of Reconstruction
1860	Lincoln's Election	1890	Wounded Knee Massacre
1861	Start of the Civil War	1901	Spanish-American War
1863	Gettysburg	1904	Annexation of Hawaii
1865	End of the Civil War	1907	Newlands Reclamation Act
1868	Reconstruction Act	1912	Progressive Era
1877	End of Reconstruction	1914	Woodrow Wilson's Presidency
1890	Wounded Knee	1917	World War I
1901	Spanish-American War	1918	Armistice Day
1904	Annexation of Hawaii	1919	Treaty of Versailles
1907	Newlands Reclamation Act	1920	Prohibition
1912	Progressive Era	1921	Red Scare
1914	Woodrow Wilson's Presidency	1929	Great Depression
1917	World War I	1933	New Deal
1918	Armistice Day	1936	Franklin D. Roosevelt's Presidency
1919	Treaty of Versailles	1939	World War II
1920	Prohibition	1941	Attack on Pearl Harbor
1921	Red Scare	1945	End of World War II
1929	Great Depression	1948	Truman's Presidency
1933	New Deal	1950	McCarthyism
1936	Franklin D. Roosevelt's Presidency	1954	Brown v. Board of Education
1939	World War II	1957	Little Rock Nine
1941	Attack on Pearl Harbor	1958	McCarthyism
1945	End of World War II	1960	John F. Kennedy's Presidency
1948	Truman's Presidency	1961	Bay of Pigs
1950	McCarthyism	1962	Cuban Missile Crisis
1954	Brown v. Board of Education	1963	John F. Kennedy's Assassination
1957	Little Rock Nine	1964	Lyndon B. Johnson's Presidency
1958	McCarthyism	1965	Vietnam War
1960	John F. Kennedy's Presidency	1968	Richard Nixon's Presidency
1961	Bay of Pigs	1970	Woodstock
1962	Cuban Missile Crisis	1972	Nixon's Presidency
1963	John F. Kennedy's Assassination	1973	Watergate
1964	Lyndon B. Johnson's Presidency	1974	Nixon's Resignation
1965	Vietnam War	1976	Gerald R. Ford's Presidency
1968	Richard Nixon's Presidency	1977	Jimmy Carter's Presidency
1970	Woodstock	1979	Soviet Invasion of Czechoslovakia
1972	Nixon's Presidency	1980	Iranian Hostage Crisis
1973	Watergate	1981	Reagan's Presidency
1974	Nixon's Resignation	1982	Iran-Contra Affair
1976	Gerald R. Ford's Presidency	1984	Reagan's Second Term
1977	Jimmy Carter's Presidency	1986	Challenger Disaster
1979	Soviet Invasion of Czechoslovakia	1988	Dubois's Presidency
1980	Iranian Hostage Crisis	1990	Gulf War
1981	Reagan's Presidency	1991	Soviet Union's Collapse
1982	Iran-Contra Affair	1992	Clinton's Presidency
1984	Reagan's Second Term	1993	Clinton's First Term
1986	Challenger Disaster	1994	Clinton's Second Term
1988	Dubois's Presidency	1995	Clinton's Third Term
1990	Gulf War	1996	Clinton's Fourth Term
1991	Soviet Union's Collapse	1997	Clinton's Fifth Term
1992	Clinton's Presidency	1998	Clinton's Sixth Term
1993	Clinton's First Term	1999	Clinton's Seventh Term
1994	Clinton's Second Term	2000	Clinton's Eighth Term
1995	Clinton's Third Term	2001	Bush's Presidency
1996	Clinton's Fourth Term	2002	Bush's Second Term
1997	Clinton's Fifth Term	2003	Bush's Third Term
1998	Clinton's Sixth Term	2004	Bush's Fourth Term
1999	Clinton's Seventh Term	2005	Bush's Fifth Term
2000	Clinton's Eighth Term	2006	Bush's Sixth Term
2001	Bush's Presidency	2007	Bush's Seventh Term
2002	Bush's Second Term	2008	Obama's Presidency
2003	Bush's Third Term	2009	Obama's First Term
2004	Bush's Fourth Term	2010	Obama's Second Term
2005	Bush's Fifth Term	2011	Obama's Third Term
2006	Bush's Sixth Term	2012	Obama's Fourth Term
2007	Bush's Seventh Term	2013	Obama's Fifth Term
2008	Obama's Presidency	2014	Obama's Sixth Term
2009	Obama's First Term	2015	Obama's Seventh Term
2010	Obama's Second Term	2016	Obama's Eighth Term
2011	Obama's Third Term	2017	Trump's Presidency
2012	Obama's Fourth Term	2018	Trump's Second Term
2013	Obama's Fifth Term	2019	Trump's Third Term
2014	Obama's Sixth Term	2020	Trump's Fourth Term
2015	Obama's Seventh Term	2021	Biden's Presidency
2016	Obama's Eighth Term	2022	Biden's Second Term
2017	Trump's Presidency	2023	Biden's Third Term
2018	Trump's Second Term	2024	Biden's Fourth Term
2019	Trump's Third Term	2025	Biden's Fifth Term
2020	Trump's Fourth Term	2026	Biden's Sixth Term
2021	Biden's Presidency	2027	Biden's Seventh Term
2022	Biden's Second Term	2028	Biden's Eighth Term
2023	Biden's Third Term	2029	Biden's Ninth Term
2024	Biden's Fourth Term	2030	Biden's Tenth Term

# Glossary

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# Glossary of Personnel and Civil Service Terms

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**Administrator** The Personnel Administrator of the Department of Personnel Administration.

**Affirmative Action** The use of positive and aggressive measures to ensure equal opportunity, and to remedy the effects of present and past discriminatory practices.

**Appointing Authority** Any person, board, or commission with the power to appoint or employ personnel in a position.

**Appointment** There are several types:

- *Emergency* An appointment made for a specified time (generally 30 days) without requisition, to cover an unforeseen emergency.
- *Intermittent* An appointment from an eligible list to recurrent employment which may be regular or irregular as the needs of the service require.
- *Permanent* An appointment to a permanent position.
- *Provisional* An appointment authorized on a requisition when there is no civil service suitable eligible list.
- *Temporary* An appointment made for the duration of a vacancy from a certified eligible list.

**Alternate Departmental Promotional Exam** A competitive examination for promotion within a department open to certain employees in qualifying titles or who meet specific entrance requirements.

## Basic Merit Principles

- recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills including the open consideration of qualified applicants for initial appointment;
- providing equitable and adequate compensation for all employees;
- providing training and development for employees, as needed, to assure the advancement and high quality performance of such employees;
- retaining employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;
- assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights, constitutional rights as citizens, and;

- assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.

**Career Management Service Positions** Those managerial and confidential positions designated in accordance with the provisions of Section 48A of Chapter 31.

**Certification** The designation to an appointing authority by the administrator, pursuant to the Civil Service law and Personnel Administration rules, of the names of persons from an eligible list or register who qualify for appointment to Civil Service positions.

**Chapter 31, Section 47A (formerly Chapter 778)** A means for appointing authorities to hire "disadvantaged" persons who pass examinations on a "special" eligible list. It provides that the Personnel Administrator "certify names alternatively from the regular list and the special eligible list."

**Chapter 500** A Chapter of the Acts of 1974 enacted to increase opportunities for part-time employment within all executive agencies of the Commonwealth.

**Civil Service** Classified civil service under the General Laws of Chapter 31 and Personnel Administration rules.

**Civil Service Appointment** An original appointment or a promotional appointment made pursuant to the provisions of the Civil Service law and Personnel Administration rules.

**Civil Service Employee** A person holding a Civil Service appointment.

**Civil Service Law and Personnel Administration Rules** Chapter 31 of the General Laws as amended and the rules promulgated pursuant to Chapter 31.

**Civil Service Position** An office or position, appointment to which is subject to the requirements of the Civil Service law and Personnel Administration rules.

**Class Allocation** The first official placement of a class (job title) in a job group in a salary schedule.

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**Class Reallocation (Upgrading)** The official subsequent placement of a class job title in a higher job group in a salary schedule.

**Class (Class of Positions)** All positions that are sufficiently similar in kinds of duties and levels of responsibility that: 1) the same descriptive title may be used to designate each position; 2) essentially the same tests of merit and fitness may be used to select employees; and 3) under like working conditions, the same schedule of compensation may be applied with equity. *Position and class are identical only when the class consists of a single position.*

**Class Specification** An official description of the characteristic duties, responsibilities and qualification requirements of a class.

**Classified Civil Service** Offices and positions to be filled under Chapter 31 and the Personnel Administration rules.

**Classification Plan** All classes that have been established for an agency, and the procedures utilized to maintain the plan and specification maintenance.

**Commission** The Civil Service Commission of the Commonwealth.

**Competitive Examination** A Civil Service examination held for original appointment and open to all eligible persons.

**Competitive Promotional Examination** A competitive examination for promotion open to certain employees of the Commonwealth in qualifying titles.

**Continuous Examination** Competitive examination held from time to time whenever the Administrator determines the public convenience so requires for original appointment and open to all eligible persons.

**Delegation** The delegation of the administration of civil service personnel functions.

**Departmental Promotional Examination** A competitive examination within a department for promotion within the department and open only to certain employees in specific titles.

**Disabled Veteran** Any veteran who (1) has a continuing service-incurred disability of not less than ten per cent based on wartime service for which he is receiving or entitled to receive compensation from the veterans administration or, provided that such disability is a permanent physical disability, for which he has been retired from any branch of the armed forces and is receiving or is entitled to receive a retirement allowance, or (2) has a continuing service-incurred disability based on wartime service for which he is receiving or is entitled to receive a statutory award from the veterans administration.

**Discharge** The permanent, involuntary separation of a person from Civil Service employment by an Appointing Authority.

**Duty** A work activity, function, or mission recognized by management as being a principal responsibility of a position.

**Eligible List** A list established by the administrator, pursuant to Civil Service law and Personnel Administration rules, of persons who have passed an examination; or a re-employment list established pursuant to Section 40 of Chapter 31; or a list of intermittent or reserve fire or police officers as authorized under the provisions of Section 60 of Chapter 31; or any other list established pursuant to the Personnel Administration rules from which certifications are made to Appointing Authorities to fill positions in the official service.

**Entrance Requirements** The prerequisites which an applicant must satisfy to be eligible to take an examination.

**Equal Employment Opportunity** The removal of all barriers to employment which unfairly discriminate against certain groups of individuals. This applies to the areas of hiring, promotion, demotion, transfer, recruitment, layoff or termination, rate of compensation, in-service or apprenticeship programs, and all other terms and conditions of employment.

**Executive Office Promotional Examination** A competitive examination within an Executive Office for promotion within that office and open to certain employees in qualifying titles.



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**Flextime** A program that allows participating employees to schedule their work hours on a daily basis within the guidelines and bandwidth established by their department. The number of hours worked per week remains constant, but the daily amount of hours can vary with employee selected starting and departing times.

**Handicap** Any condition or characteristic, physical or mental, which substantially limits one or more major life activities; or a record of such impairment; or the external manifestations of such impairment.

**Job** A non-technical term for a set of duties and responsibilities of a position or group of positions.

**Job Analysis** A systematic process for the examination and determination of:

- the nature, characteristics, functions, duties, activities or responsibilities of a job;
- the knowledge, skill or experience which is essential to have for its performance; and
- the environmental conditions, safety, equipment, tools and related factors of the job.

**Job Group** A unit of a salary schedule which includes all classes in a position classification plan which are sufficiently comparable in value as regards duties and responsibilities, regardless of the field of work of which they form a part, so that the same salary range may be made to apply to all classes in the same unit of a salary schedule.

**Labor Service** The composite of all civil service positions whose duties are such that a suitable selection for such positions may be made based upon registration pursuant to Section 28 of Chapter 31 rather than by competitive examination.

**Management Intern Examination** A competitive examination held for original appointment for persons with a bachelor's degree.

**Noncompetitive Examination** An examination given to an individual selected for original appointment by an appointing authority when it has been impossible to establish an eligible list.

**Massachusetts Employee Assistance Program (MEAP)** A program established to aid employees whose work performance has deteriorated because of alcohol and drug abuse, and other personal problems that affect productivity on the job.

**Occupational Group (Occupation)** All positions within a given discipline or field of work (all positions that are similar in kind) regardless of level of responsibility (e.g., the Professional Engineering Group).

**Official Service** The composite of all civil service positions not in the labor service.

**Original Appointment** An appointment pursuant to Section 6 or Section 28 of Chapter 31.

**Paragraph 10 (formerly Rule 14)** A means for appointing authorities to remedy the effects of illegal discriminatory practices providing increased opportunities to members of protected groups being considered for civil service employment.

**Performance Evaluation** An evaluation of an employee's performance in accordance with the standards outlined in Section 6 A to 6 C, inclusive of Chapter 31 of section 46C (a) of Chapter 30.

**Permanent Employee** A person who is employed in a civil service position (1) following an original appointment, subject to serving of a probationary period as required by law, but otherwise without restriction as to the duration of his or her employment; or (2) following a promotional appointment, without restriction as to the duration of his or her employment.

**Position** A group of duties and associated responsibilities assigned by proper authority to be performed by an employee. A position may be full or part time, occupied or vacant, temporary or permanent. The number of employed workers equals the number of filled positions. The position is the basic unit of organization.

**Position Allocation** The first official placement of a position in a class forming part of a position classification plan of the Commonwealth.

**Position Classification Plans** The plans resulting from position allocations pertaining to the personal services of the Commonwealth, except offices and positions in the judicial and legislative branches.

**Position Reallocation** Any subsequent official placement of a position in a class, forming part of a position classification plan of the Commonwealth.



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**Probationary Period** A preliminary period of employment prior to permanent appointment of an employee for the purpose of determining his/her fitness for permanent employment.

**Promotional Appointment** An appointment pursuant to Section 7 or, in the labor service pursuant to the Personnel Administration Rules, or a person employed in one title to a higher title in the same or a different series, or to another title which is not higher but where substantially dissimilar requirements prevent a transfer pursuant to Section 35 of Chapter 31.

**Promotion Examination** An examination for positions in a particular class, admission to which is limited to employees in the classified service who have held a position in another class.

**Promotional List** A list of persons who have been found qualified by a promotional examination for promotion to a position in a particular class.

**Qualifying Examination** An examination given to test the qualifications of an incumbent whose position is placed under Civil Service by law or Personnel Administration rule, or an examination given to an individual to qualify for promotion, as provided in General Laws, Chapter 31, Section 8.

**Race/Ethnic Groups:**

*White* All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Black* All persons having origins in any of the Black racial groups of Africa.

*Hispanic* All persons of Mexican, Puerto Rican, Cuban, Central or South American culture or origin.

*Asian or Pacific Islander* All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

*American Indian or Alaskan Native* All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

*Cape Verdean* All persons having origins in the Cape Verde Islands.

**Register** A list established by the Personnel Administrator, pursuant to the Civil Service law and the Personnel Administration rules, from which certifications are made to Appointing Authorities to fill Civil Service positions in the labor service.

**Regular Part-Time Employee** A person who works a regularly scheduled work week of at least half the hours of a full-time employee and who receives benefits prorated on the percentage of time worked.

**Reinstatement** The restoration of an employee to a position pursuant to the Civil Service law and Personnel Administration rules.

**Requisition** A request by an appointing authority to the administrator to certify names of persons for appointment to civil service positions.

**Roster** A list of permanent employees in a departmental unit, arranged according to seniority, and of employees appointed pursuant to temporary or provisional appointments.

**Rules** The rules of the Personnel Administrator promulgated pursuant to the Civil Service law.

**Seasonal position** A position requiring the services of an incumbent, on either a full-time or less than full-time basis, beginning no earlier than May 1 and ending no later than September 30th or beginning no earlier than November 1 and ending no later than April 1 in any twelve-month period; provided, however, that the following position shall not be deemed to be seasonal; (1) a position in the police force or fire force of a city or town, (2) a position in the detective force of the state department of public safety, in the capitol police force, or in the police force of the Metropolitan District Commission, and (3) a permanent position for which funds have been appropriated or are available on a permanent basis.

**Seniority** Ranking based on length of service.

**Series** A vertical grouping of related titles so that they form a career ladder.

**Suspension** A temporary, involuntary separation of a person from civil service employment by an appointing authority.

**Tasks** Official assignments for carrying out a specific duty. A task may be an entire duty or may be part of a duty.

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**Temporary Employee** A person who is employed in a Civil Service position, after a Civil Service appointment, for a specified period of time or for the duration of a temporary vacancy.

**Tenured Employee** A Civil Service employee who is employed following (1) an original appointment to a position on a permanent basis and the actual performance of the duties of such position for the probationary period required by law or (2) a promotional appointment on a permanent basis.

**Title** A descriptive name applied to a position or to a group of positions having similar duties and the same general level of responsibility.

**Unassembled Examination** An examination which consists of grading an examinee on the basis of his/her training and experience Chapter 31, Section 16.

**Unauthorized Absence** An absence from work for a period of more than fourteen (14) days for which no proper notice has been given by the employee to the appointing authority, or person authorized to do so, and which may not be charged to vacation or sick leave allowance, or for which no approval was given as provided for in General Laws, Chapter 31, Sections 37 and 38, which absence shall be deemed to be an abandonment of his/her position and to be a permanent and voluntary separation from the service.

**Veteran** Any person who:

(1) Comes within the definition of a veteran appearing in the 43rd clause of Section 7 of Chapter 4; or

(2) Comes within such definition except that instead of having performed "wartime service" as defined therein, he has been awarded the Congressional Medal of Honor or one of the following campaign badges: Second Nicaraguan Campaign, Yangtze Service, Navy Occupation Service, Army of Occupation, or medal for Humane Action; or

(3) Is a person eligible to receive the Congressional Medal of Honor or one of the campaign badges enumerated in clause (2) of this paragraph and who presents proof of such eligibility which is satisfactory to the administrator.

**Wartime Service** The same meaning as specified in the 43rd clause of Section 7 of Chapter 4, or active service in the armed forces of the United States in any campaigns for which an award was made of any of the campaign badges enumerated in the definitions of a veteran.

